

1 [The following is a continuation of the unclassified session on 24
2 July 2008.]

3 Q [MR. SCHNEIDER]: Okay. I don't want to know his name. Do
4 you know if he went on the drive arounds?

5 A [MR. [REDACTED]]: I do not.

6 Q [MR. SCHNEIDER]: If I show you a photo of the folks that did,
7 would you be able to tell us--I'd like to show the photo. I don't
8 want to show his picture. I don't think he's in it. Can we show
9 that just to the witness and the Military Judge to determine that?

10 MJ [CAPT ALLRED]: Yes.

11 CDC [MR. SCHNEIDER]: So it will not go----

12 MJ [CAPT ALLRED]: Have the government seen this photo?

13 CDC [MR. SCHNEIDER]: It will not be on the screens yet.

14 MJ [CAPT ALLRED]: Is there any objection to showing this photo
15 to the witness?

16 TC [LCDR STONE]: I don't think he has the foundation to do it,
17 but he can show it to him.

18 MJ [CAPT ALLRED]: Okay.

19 CDC [MR. SCHNEIDER]: I'll try.

20 Q [MR. SCHNEIDER]: Can you see the photo?

21 MJ [CAPT ALLRED]: You may show it to the witness.

22 A [MR. [REDACTED]]: Yes.

23

1 Q [MR. SCHNEIDER]: Do you recognize anyone in it?

2 A [MR. [REDACTED]]: One person.

3 Q [MR. SCHNEIDER]: Can you tell me which person it is, just in
4 the order from left to right?

5 A [MR. [REDACTED]]: It would be the second person in from the
6 left.

7 Q [MR. SCHNEIDER]: Is that the person whose identify is
8 anonymous this week and last week?

9 A [MR. [REDACTED]]: No.

10 Q [MR. SCHNEIDER]: What is his name, if it's----

11 A [MR. [REDACTED]]: Special Agent [REDACTED].

12 Q [MR. SCHNEIDER]: [REDACTED], who is going to testify in a
13 few moments, hopefully?

14 A [MR. [REDACTED]]: Yes.

15 Q [MR. SCHNEIDER]: Okay. And do you know--based on your
16 knowledge and experience gained in your investigation in Afghanistan
17 and what you know what your colleagues do--did, do you know what this
18 depicts?

19 A [MR. [REDACTED]]: I can venture to say that this is the group
20 that had gone out with Mr. Hamdan, security members or Afghani
21 interpreters, I don't know.

22

23

1 Q [MR. SCHNEIDER]: Okay. Isn't it a fact that after he
2 voluntarily agreed to take your colleagues to these locations, they
3 did go? They went?

4 A [MR. [REDACTED]]: Yes, they did go.

5 Q [MR. SCHNEIDER]: And as far as you know, he pointed out
6 variation locations of interest?

7 A [MR. [REDACTED]]: To my knowledge.

8 Q [MR. SCHNEIDER]: And folks other than you might be in a
9 better position to tell us exactly what types of locations and where;
10 correct?

11 A [MR. [REDACTED]]: Mr. [REDACTED] would be best suited to tell you.

12 Q [MR. SCHNEIDER]: Agent [REDACTED]?

13 CDC [MR. SCHNEIDER]: Just for the moment, may we show the
14 photograph to the members?

15 MJ [CAPT ALLRED]: Can you turn that off, or admit it?

16 TC [LCDR STONE]: No objections.

17 CDC [MR. SCHNEIDER]: Before we show it to the members, I would
18 ask that we mark it for identification, and I will offer it.

19 MJ [CAPT ALLRED]: Okay. What is the exhibit number? C?
20 Defense Exhibit C, admitted without objection from the government.

21 TC [LCDR STONE]: No objection.

22 MJ [CAPT ALLRED]: It may be shown to the Members.

23

1 Q [MR. SCHNEIDER]: Is that--as far as you--based on what you
2 know, that's a group including Agent [REDACTED], who is second from the
3 left and perhaps interpreters or others who accompanied them on the
4 tour of Kandahar?

5 A [MR. [REDACTED]]: Yes.

6 Q [MR. SCHNEIDER]: And when I say tour, I mean going to see
7 those locations of interest to the FBI in its efforts to identify
8 more information about Bin Laden?

9 A [MR. [REDACTED]]: And to also establish Mr. Hamdan's
10 credibility.

11 Q [MR. SCHNEIDER]: Oh, correct. Do you know who is in the left
12 of the middle there, whose face is not shown?

13 A [MR. [REDACTED]]: I imagine that's Mr. Hamdan.

14 Q [MR. SCHNEIDER]: All right. Do you know whether the
15 translator who worked with you was of Arab origin, a native Arab
16 speaker or trained?

17 A [MR. [REDACTED]]: He was trained.

18 Q [MR. SCHNEIDER]: Okay?

19 CDC [MR. SCHNEIDER]: I'd like to mark for identification a
20 SECRET document.

21 [END OF PAGE]

1 Q [MR. SCHNEIDER]: I've come to learn that perhaps Agent [REDACTED]
2 would be a better candidate for the next line of questioning. Would
3 it be okay with you if I asked him, instead of you?

4 A [MR. [REDACTED]]: He might help you a little more.

5 Q [MR. SCHNEIDER]: Okay. You're trying to help us today
6 yourself, correct, based on what you know?

7 A [MR. [REDACTED]]: What I know.

8 Q [MR. SCHNEIDER]: So I'm not going to ask any questions about
9 what is in that document not yet marked.

10 Did you give him any rights advisement, any warning that he
11 might be a suspect in a criminal investigation, Mr. Hamdan?

12 A [MR. [REDACTED]]: We did not.

13 Q [MR. SCHNEIDER]: Isn't it true that when you first
14 interviewed him, you viewed him as a source of information, correct?

15 A [MR. [REDACTED]]: That's fair, yes.

16 Q [MR. SCHNEIDER]: And you didn't show up, anyone having told
17 you that he was a suspect to be charged with this crime?

18 A [MR. [REDACTED]]: No.

19 Q [MR. SCHNEIDER]: Yet you knew he had been a driver, or at
20 least he said he had been a driver, right?

21 A [MR. [REDACTED]]: Yes.

22

23

1 Q [MR. SCHNEIDER]: So when you showed up, he wasn't a suspect
2 in a criminal investigation and as far as you knew he was just a guy
3 who may have driven Bin Laden? I don't mean just a guy. He was a
4 guy who had driven Bin Laden, and you were interested to find out if
5 that was true?

6 A [MR. [REDACTED]]: That was my information and that was my
7 intent.

8 Q [MR. SCHNEIDER]: And part of your effort to obtain
9 information from Mr. Hamdan was to assist in ongoing criminal
10 investigations back home?

11 A [MR. [REDACTED]]: Not entirely.

12 Q [MR. SCHNEIDER]: I think I said in part, but if not, I'll
13 rephrase it. Isn't it true that in part, the purpose of your
14 interview of Mr. Hamdan was to assist in the ongoing criminal
15 investigations back home of individuals who were responsible for the
16 planning, the organization, the implementation, and the execution of
17 terrorist acts, true?

18 A [MR. [REDACTED]]: Not just criminal investigations because we
19 also had intelligence component as well, so between those two
20 efforts.

21 [END OF PAGE]

1 Q [MR. SCHNEIDER]: Fair enough. And so your purpose was in
2 part to find out what you could in those ongoing investigations,
3 criminal or otherwise, to try to identify the people responsible for
4 the planning, the execution, the organization, implementation of
5 terrorist acts, including 9/11, the COLE bombing, the African embassy
6 bombings, correct?

7 A [MR. [REDACTED]]: And, again, correct, or al Qaeda in general.

8 Q [MR. SCHNEIDER]: And just based on your experience, would you
9 agree with me that Mr. Hamdan did provide you some assistance in that
10 investigation?

11 A [MR. [REDACTED]]: Yes.

12 Q [MR. SCHNEIDER]: Have you ever investigated, interrogated,
13 any suspects with regard to those crimes: the 9/11 crimes, the
14 embassy bombing crimes, the COLE bombing crimes? Have you ever
15 interrogated any suspects in those cases?

16 A [MR. [REDACTED]]: Yes.

17 Q [MR. SCHNEIDER]: Did you give them their rights?

18 A [MR. [REDACTED]]: Not always.

19 Q [MR. SCHNEIDER]: Tell me when you did as opposed to when you
20 did not, generally speaking?

21 A [MR. [REDACTED]]: Generally speaking, it depends on the
22 sourcing of the information that we initially received. So I can
23 travel overseas and talk to people that may have been in custody that

1 we didn't pursue--or we didn't intend to pursue criminally. I can
2 talk to them but we didn't read them their rights advisements.
3 Similar to Mr. Hamdan, I was given instruction, since it was a
4 military environment, relatively--relatively obscure until recently,
5 don't read him his rights and----

6 Q [MR. SCHNEIDER]: Maybe I can help.

7 A [MR. [REDACTED]]: Yeah.

8 Q [MR. SCHNEIDER]: When you've interrogated suspects in these
9 terrorist acts in continental United States--I'm assuming you didn't
10 interview any in Hawaii or Alaska?

11 A [MR. [REDACTED]]: No.

12 Q [MR. SCHNEIDER]: And they were suspects in those crimes and
13 they were detained, did you give them their rights?

14 A [MR. [REDACTED]]: Yes.

15 Q [MR. SCHNEIDER]: And how about overseas? Other than
16 Guantanamo, were there occasions when you interviewed suspects in the
17 terrorist crimes while they were detained and you gave them their
18 rights?

19 A [MR. [REDACTED]]: I never interviewed a suspect overseas that
20 was detained, so I didn't read anybody their rights.

21 [END OF PAGE]

22

23

1 Q [MR. SCHNEIDER]: Okay. Fair enough. But if you had, do you
2 have a view of whether you would have given them their rights,
3 perhaps? Maybe?

4 A [MR. [REDACTED]]: Yeah, maybe, depending on what the status of
5 the case was and where the intent was for that person criminally or
6 intelligence wise.

7 Q [MR. SCHNEIDER]: To your knowledge, did the Federal Bureau of
8 Investigation ever make any recommendation or did the United States
9 attorney ever make any filing of charges, criminal charges against
10 Mr. Hamdan?

11 A [MR. [REDACTED]]: Could you repeat the question?

12 Q [MR. SCHNEIDER]: Was Mr. Hamdan ever charged by the United
13 States Attorney for any crimes, Federal crimes?

14 A [MR. [REDACTED]]: No.

15 Q [MR. SCHNEIDER]: Were there people--are there people today,
16 who were involved, as far as you know, based on what you know, in the
17 planning, the organizing, the implementation and the execution of
18 these terrorist crimes who have been charged by the United States
19 Attorney for crimes?

20 A [MR. [REDACTED]]: Sure.

21 Q [MR. SCHNEIDER]: But Mr. Hamdan is not one of them?

22 A [MR. [REDACTED]]: No.

23

1 Q [MR. SCHNEIDER]: Mr. Hamdan was respectful when you spoke
2 with him?

3 A [MR. [REDACTED]]: Yes.

4 Q [MR. SCHNEIDER]: Was he willing to identify other people?

5 A [MR. [REDACTED]]: He did.

6 Q [MR. SCHNEIDER]: In fact, I'd like to ask you just a few
7 follow-up questions on your Form 302. You've read it recently,
8 haven't you?

9 A [MR. [REDACTED]]: Yes.

10 Q [MR. SCHNEIDER]: Like in order to testify, you've read it
11 recently?

12 A [MR. [REDACTED]]: Sure.

13 Q [MR. SCHNEIDER]: And there's nothing wrong with that. And
14 you've testified before?

15 A [MR. [REDACTED]]: I have.

16 Q [MR. SCHNEIDER]: Did you ever--did you have any prep session,
17 preparation session where you're able to go over the questions that
18 you might be asked on direct and what your answers would be?

19 A [MR. [REDACTED]]: Working with the prosecutors, yes.

20 Q [MR. SCHNEIDER]: Did you have a chance to, if you needed to,
21 clarify any answers before you came in here and testified before the
22 panel?

23 A [MR. [REDACTED]]: Yes.

1 Q [MR. SCHNEIDER]: When you stated the name Suqr, isn't it
2 actually Saqr?

3 A [MR. [REDACTED]]: It's S-a-q-r.

4 Q [MR. SCHNEIDER]: Okay. I think you were asked if Mr. Hamdan
5 had been at that camp for days.

6 A [MR. [REDACTED]]: At which camp?

7 Q [MR. SCHNEIDER]: How long?

8 A [MR. [REDACTED]]: At which camp?

9 Q [MR. SCHNEIDER]: When you were talking about the one where
10 he--he showed up and--that was a training camp. I don't know the
11 name of it.

12 A [MR. [REDACTED]]: al Farouq.

13 Q [MR. SCHNEIDER]: Yeah. Can you be more specific? I mean,
14 are we--how many--are we talking a month or two months or three
15 months? How long was he there?

16 A [MR. [REDACTED]]: He told me 30 to 40 days.

17 Q [MR. SCHNEIDER]: Okay. Do you remember writing in the report
18 that he stayed in a tent on the outskirts of camp for three days?

19 A [MR. [REDACTED]]: Yes.

20 Q [MR. SCHNEIDER]: And have you looked--did you see in your
21 report where you mentioned 30 to 40 days?

22 A [MR. [REDACTED]]: Yes.

23

1 Q [MR. SCHNEIDER]: Do you know--when you talk about
2 conversations--going back. To your knowledge, did Mr. Hamdan, based
3 on what he told you at any time, did he ever give any sort of
4 commitment or oath to Bin Laden to engage in terrorist acts?

5 A [MR. [REDACTED]]: He did not.

6 Q [MR. SCHNEIDER]: Did not?

7 A [MR. [REDACTED]]: He did not.

8 Q [MR. SCHNEIDER]: And he told you that he left the camp or--
9 because he didn't want to be a fighter?

10 A [MR. [REDACTED]]: He told us that.

11 Q [MR. SCHNEIDER]: Didn't want to be a military person?

12 A [MR. [REDACTED]]: Did not.

13 Q [MR. SCHNEIDER]: Did the camps also train people who were
14 fighting at the front?

15 A [MR. [REDACTED]]: They did.

16 Q [MR. SCHNEIDER]: People who were fighting alongside the
17 Taliban?

18 A [MR. [REDACTED]]: Yes.

19 Q [MR. SCHNEIDER]: People who were fighting in what I might
20 describe as more conventional warfare?

21 A [MR. [REDACTED]]: True.

22

23

1 Q [MR. SCHNEIDER]: Against the Northern Alliance?

2 A [MR. [REDACTED]]: And the camps had a mixture of personnel
3 that can train for various reasons. Some went to the Northern
4 Alliance to fight, some went with al Qaeda, others simply went home.

5 Q [MR. SCHNEIDER]: But Mr. Hamdan, as far as you knew, based on
6 what he--your interrogation, he went back home, I think you said, to
7 do something else, correct?

8 A [MR. [REDACTED]]: Well, after the camp, he returned to
9 Kandahar, and while at Kandahar he made a trip back to Yemen for a
10 short period before returning back to Afghanistan.

11 Q [MR. SCHNEIDER]: What he was going to do was drive, right?

12 A [MR. [REDACTED]]: In Afghanistan, yes.

13 Q [MR. SCHNEIDER]: In your report you indicate that he told you
14 it was al Qaeda members who were detonating explosives, right?

15 A [MR. [REDACTED]]: That's what he told us.

16 Q [MR. SCHNEIDER]: He described those people, though, right?

17 A [MR. [REDACTED]]: What the camp cadre described to him that
18 those people were al Qaeda.

19 Q [MR. SCHNEIDER]: Okay. But those--he wasn't doing that?

20 A [MR. [REDACTED]]: No.

21 Q [MR. SCHNEIDER]: He had no desire to fight with the Taliban,
22 correct?

23 A [MR. [REDACTED]]: As he explained to us.

1 Q [MR. SCHNEIDER]: You were asked if he did something in
2 particular with regard to his driving, and I think you said he drove
3 frequently, right?

4 A [MR. [REDACTED]]: Yes.

5 Q [MR. SCHNEIDER]: That was the description?

6 A [MR. [REDACTED]]: That's what he described to us.

7 Q [MR. SCHNEIDER]: This fellow Abu Yassir he mentioned.

8 A [MR. [REDACTED]]: Yes.

9 Q [MR. SCHNEIDER]: Did anyone tell you before he volunteered
10 that name that that was the name of the person he had identified on
11 November 26th, 2001, as the owner of the car?

12 A [MR. [REDACTED]]: No, that's the first time I had heard that
13 name, is when he described it to us.

14 Q [MR. SCHNEIDER]: Did anyone ever tell you that they had
15 confiscated some sort of material from a car at Takteh-Pol which
16 contained Abu Yassir's name?

17 A [MR. [REDACTED]]: I never heard that name until he mentioned
18 that it's his car.

19 Q [MR. SCHNEIDER]: What, if anything, did you do to follow up
20 on that to determine if it was Abu Yassir's car?

21 A [MR. [REDACTED]]: I didn't because there were some photos
22 found in that car that were of specific interest to us at the time,
23 so I followed up more with the photos that were in the car and then

1 asked him who these photos belonged to and how--how could you not
2 know these people, pictures of other people in the car, we didn't
3 really touch on the weapons that were in the car.

4 Q [MR. SCHNEIDER]: And you didn't talk to him about whether
5 they were his photos as opposed to Abu Yassir's, right?

6 A [MR. [REDACTED]]: Well, he explained those were Abu--those
7 were Abu Yassir's photos or he said they weren't his photos.

8 Q [MR. SCHNEIDER]: So he told you who--he told you who owned
9 them; right?

10 A [MR. [REDACTED]]: He told us it was Abu Yassir, yes.

11 Q [MR. SCHNEIDER]: And he didn't hesitate to then identify the
12 individuals depicted in each photo you shown him--you showed him, if
13 he could?

14 A [MR. [REDACTED]]: He could have but he didn't. He wasn't able
15 to identify them.

16 Q [MR. SCHNEIDER]: None of them?

17 A [MR. [REDACTED]]: None of them. The one that--there were
18 pictures in the car that were written in my report.

19 Q [MR. SCHNEIDER]: Ah.

20 A [MR. [REDACTED]]: So those are the ones that I showed him,
21 'cause I thought that it would be unusual for him to be in that car
22 and not know the individuals that were in that--the ID cards and the
23 pictures that were in that car.

1 Q [MR. SCHNEIDER]: Did you know that--did Agent [REDACTED] ever
2 tell you that Abi--Abu Yassir was someone who was engaged in the
3 preparation of false passports?

4 A [MR. [REDACTED]]: Well, I knew that from my other
5 investigations. There's numerous Abu Yassirs, so I wanted to make
6 sure he's the same Abu Yassir, but I know him from being at other
7 camps in Afghanistan.

8 Q [MR. SCHNEIDER]: Okay. So you knew that Abu Yassir was a guy
9 who you had been told makes fake passports?

10 A [MR. [REDACTED]]: Well, I knew that, yes.

11 Q [MR. SCHNEIDER]: You knew it already. You were told by
12 Hamdan that it was Abu Yassir's car?

13 A [MR. [REDACTED]]: Yes.

14 Q [MR. SCHNEIDER]: And you were told certainly by other law
15 enforcement folks that they had recovered a bunch of small pictures
16 in the car, right?

17 A [MR. [REDACTED]]: Yes, I knew they were found in the car.

18 Q [MR. SCHNEIDER]: Did that cause you to have any sense that
19 maybe they were Abu Yassir's photos?

20 A [MR. [REDACTED]]: It was possible, but I wanted to know how
21 well he knew Abu Yassir. That was a new name to me that I hadn't
22 heard from him before, so I kind of started to ask him more about Abu
23 Yassir.

1 Q [MR. SCHNEIDER]: Fair enough. And there was a good reason,
2 right?

3 A [MR. [REDACTED]]: Correct.

4 Q [MR. SCHNEIDER]: You didn't know him. You had to test his
5 credibility?

6 A [MR. [REDACTED]]: Correct.

7 Q [MR. SCHNEIDER]: Would you agree with Agent [REDACTED] that--if
8 Agent [REDACTED] testified that information from Hamdan pretty much
9 checked out?

10 A [MR. [REDACTED]]: I--I got a lot because he was very
11 cooperative, but I think there were still bits and pieces I didn't
12 fully--I wanted more information or I wanted to go deeper in some of
13 that. I thought he may be holding back a bit, so----

14 Q [MR. SCHNEIDER]: But other than the bits and pieces----

15 A [MR. [REDACTED]]: Well, he----

16 Q [MR. SCHNEIDER]: ----he was right on the money on some
17 things, wasn't he?

18 A [MR. [REDACTED]]: On some things but I didn't--for someone to
19 have so much frequent interaction with a person like Usama Bin Laden
20 and just come to Afghanistan in 1999, it didn't make any sense to me.
21 There was more there that I wasn't--didn't get in my three days with
22 him, so----

23

1 Q [MR. SCHNEIDER]: Fair enough. And you're unaware of what he
2 had told people who preceded you in interrogating him?

3 A [MR. [REDACTED]]: Correct.

4 Q [MR. SCHNEIDER]: And, of course, you wouldn't have known what
5 he told people who came after?

6 A [MR. [REDACTED]]: I would have known later, but I was so----

7 Q [MR. SCHNEIDER]: But not at the time. Okay. He did identify
8 pictures in a photo book you showed him, right?

9 A [MR. [REDACTED]]: Yes, he did.

10 Q [MR. SCHNEIDER]: And those were investigative photos that you
11 had in your possession, right?

12 A [MR. [REDACTED]]: Correct.

13 Q [MR. SCHNEIDER]: In order to assist you in the criminal and
14 other investigation of these people who were responsible for these
15 crimes, right?

16 A [MR. [REDACTED]]: Yes.

17 Q [MR. SCHNEIDER]: He identified number 47?

18 A [MR. [REDACTED]]: Which was?

19 Q [MR. SCHNEIDER]: Usama Bin Laden.

20 A [MR. [REDACTED]]: Okay.

21 Q [MR. SCHNEIDER]: He--correct?

22 A [MR. [REDACTED]]: Correct, he did positively identify him.

23

1 Q [MR. SCHNEIDER]: And he identified number 48?

2 A [MR. [REDACTED]]: Abu Hafs Al Masri?

3 Q [MR. SCHNEIDER]: No, not yet? Zawahiri.

4 A [MR. [REDACTED]]: Al Zawahiri. Okay.

5 Q [MR. SCHNEIDER]: And he identified number 53, Mustapha

6 Mohamed Fadhil----

7 A [MR. [REDACTED]]: Correct.

8 Q [MR. SCHNEIDER]: ----although he couldn't remember his name?

9 A [MR. [REDACTED]]: Correct.

10 Q [MR. SCHNEIDER]: And he told you he had seen him, right?

11 A [MR. [REDACTED]]: Correct.

12 Q [MR. SCHNEIDER]: Because he had been in his vicinity,

13 correct?

14 A [MR. [REDACTED]]: In the guest house in Kabul, I believe.

15 Q [MR. SCHNEIDER]: And he told you that he had seen Zawahiri

16 because he had been in his vicinity, correct?

17 A [MR. [REDACTED]]: In the camp, correct.

18 Q [MR. SCHNEIDER]: How about number 59, Abu Hafs?

19 A [MR. [REDACTED]]: Yes.

20 Q [MR. SCHNEIDER]: He identified him?

21 A [MR. [REDACTED]]: He identified him, as well.

22

23

1 Q [MR. SCHNEIDER]: Because he told you he had seen him in his
2 vicinity, correct?

3 A [MR. [REDACTED]]: That and we also recovered his body after he
4 was killed.

5 Q [MR. SCHNEIDER]: Right. And number 64, Al-Haq Wasiq?

6 A [MR. [REDACTED]]: Yes.

7 Q [MR. SCHNEIDER]: He told you he had seen him in the vicinity?

8 A [MR. [REDACTED]]: Yes--well, he told--that one was unusual to
9 me because he said he--described him as the Taliban ambassador and
10 had seen him in Bagram.

11 Q [MR. SCHNEIDER]: Okay. But he'd seen him?

12 A [MR. [REDACTED]]: He'd seen him.

13 Q [MR. SCHNEIDER]: In his own presence?

14 A [MR. [REDACTED]]: Somewhere.

15 Q [MR. SCHNEIDER]: And he voluntarily told you?

16 A [MR. [REDACTED]]: He did.

17 Q [MR. SCHNEIDER]: Pointed at the photo and said yes?

18 A [MR. [REDACTED]]: Correct.

19 Q [MR. SCHNEIDER]: Okay. Number 69, Abu Zubaida?

20 A [MR. [REDACTED]]: Um-hum.

21 Q [MR. SCHNEIDER]: Same thing; right?

22 A [MR. [REDACTED]]: Abu Zubaida, yes.

23

1 Q [MR. SCHNEIDER]: He had in the vicinity?

2 A [MR. [REDACTED]]: Correct.

3 Q [MR. SCHNEIDER]: Number 99, Al Sheikh----

4 A [MR. [REDACTED]]: Al Sheikh al Libi? Correct.

5 Q [MR. SCHNEIDER]: All right. Did you ever go back and try to

6 check out any other information about Abu Yassir or the car and

7 compare what was recovered from the car?

8 A [MR. [REDACTED]]: After I departed Afghanistan in mid to late

9 February, no, I did not.

10 Q [MR. SCHNEIDER]: Okay. I'm just about finished. That's okay

11 with you?

12 A [MR. [REDACTED]]: Sure.

13 Q [MR. SCHNEIDER]: Okay. Have you ever investigated a

14 conspiracy?

15 A [MR. [REDACTED]]: Yes.

16 Q [MR. SCHNEIDER]: And on those occasions have you ever--would

17 it be relevant information, if you could access it, to be able to

18 talk to someone who was an admitted member of the conspiracy who was

19 willing to talk to you about the others?

20 A [MR. [REDACTED]]: Would it be helpful?

21 Q [MR. SCHNEIDER]: Could be helpful.

22 A [MR. [REDACTED]]: Yes.

23

1 Q [MR. SCHNEIDER]: And if the information is accurate, would it
2 be helpful?

3 A [MR. [REDACTED]]: We have cooperatees all the time.

4 Q [MR. SCHNEIDER]: Is there any reason in the world that you
5 can think of, if you're investigating a conspiracy, why you wouldn't
6 sit down with some admitted co-conspirator who is willing to tell you
7 what he knows?

8 A [MR. [REDACTED]]: We would have loved to have him function in
9 that capacity.

10 Q [MR. SCHNEIDER]: Okay. And could you--did you ever go talk
11 to any--anybody that was an admitted co-conspirator?

12 A [MR. [REDACTED]]: Yes.

13 Q [MR. SCHNEIDER]: Can you give me a name?

14 A [MR. [REDACTED]]: Abu Mohammed from the 1998 East Africa
15 embassy bombings.

16 Q [MR. SCHNEIDER]: And is there anything in your reports about
17 what he told you about Mr. Hamdan?

18 A [MR. [REDACTED]]: No, this would have preceded my knowledge of
19 Mr. Hamdan.

20 [END OF PAGE]

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1 Q [MR. SCHNEIDER]: Oh, sure, but as you sit here today, isn't
2 it fair to say that--that that guy who spoke to you voluntarily about
3 a conspiracy in 1998 with regard to the East Africa embassy bombings,
4 and as far as you remember he didn't say a word about Mr. Hamdan, did
5 he?

6 A [MR. [REDACTED]]: No. I never asked him, or I'm not aware of
7 any words or descriptions he gave of Mr. Hamdan.

8 Q [MR. SCHNEIDER]: Do you know who Tabarak is?

9 A [MR. [REDACTED]]: Who?

10 Q [MR. SCHNEIDER]: Tabarak?

11 A [MR. [REDACTED]]: Tabarak. It sounds like the--an area or
12 region he had driven towards in my statement.

13 Q [MR. SCHNEIDER]: That sounds like that. It's probably
14 because I can't pronounce the name.

15 Have you ever seen [REDACTED] PowerPoint?

16 A [MR. [REDACTED]]: I did not.

17 Q [MR. SCHNEIDER]: Of al Qaeda leadership?

18 A [MR. [REDACTED]]: No.

19 Q [MR. SCHNEIDER]: May I ask you a question about it even if
20 you haven't seen it before today?

21 A [MR. [REDACTED]]: You can.

22

23

1 Q [MR. SCHNEIDER]: Exhibit 23. Or Elmo, that will be easier,
2 Elmo. Elmo refers to this device here; it's not somebody's name. Is
3 that on your screen?

4 A [MR. [REDACTED]]: Not yet.

5 Q [MR. SCHNEIDER]: Okay. It's admitted into evidence, so I
6 would ask that it be shown on every video that's available, every
7 monitor?

8 MJ [CAPT ALLRED]: Please do.

9 Q [MR. SCHNEIDER]: This is--assume this has been described as a
10 PowerPoint slide presentation, or rather excerpts of it, prepared by
11 Mr. [REDACTED], former Agent [REDACTED]. Do you see those folks at the top?

12 A [MR. [REDACTED]]: Yes.

13 Q [MR. SCHNEIDER]: Generally speaking, are folks that you
14 understand were definitely involved in the planning, the organizing,
15 the implementation and the execution of the 9/11 crimes, COLE bombing
16 crimes, embassy bombing crimes?

17 A [MR. [REDACTED]]: It's the top leadership of al Qaeda.

18 Q [MR. SCHNEIDER]: Okay. People like KSM?

19 A [MR. [REDACTED]]: Yes.

20 Q [MR. SCHNEIDER]: People like Walid bin Attash?

21 A [MR. [REDACTED]]: Correct.

22 Q [MR. SCHNEIDER]: I want to look at slide 5, is that all
23 right?

1 MJ [CAPT ALLRED]: Can you zoom that in at all?

2 DC [MR. SCHNEIDER]: I can try.

3 Q [MR. SCHNEIDER]: How is that?

4 A [MR. [REDACTED]]: Much better.

5 Q [MR. SCHNEIDER]: Do you see the name of the guy at the bottom

6 here, Abu Asem Al----

7 A [MR. [REDACTED]]: Maghribi? Um-hum. I do.

8 Q [MR. SCHNEIDER]: Maghribi. Do you know who that is?

9 A [MR. [REDACTED]]: He's the Moroccan who is the head of the

10 security detail for Usama Bin Laden.

11 Q [MR. SCHNEIDER]: Head of all the guards?

12 A [MR. [REDACTED]]: According to Mr. Hamdan. Yes

13 Q [MR. SCHNEIDER]: All the body guards?

14 A [MR. [REDACTED]]: Of the body guards of the convoy that I knew

15 transported him.

16 Q [MR. SCHNEIDER]: The head guy?

17 A [MR. [REDACTED]]: The head guy of a smaller group, yes.

18 Q [MR. SCHNEIDER]: Of all the body guards?

19 A [MR. [REDACTED]]: Of the body guards.

20 Q [MR. SCHNEIDER]: Okay. Mr. Hamdan told you that?

21 A [MR. [REDACTED]]: He told me that Abu Asem from Morocco was

22 the head of the detachment of the convoy when they moved.

1 Q [MR. SCHNEIDER]: As far as you know, did the information
2 check out; was it right on the money?

3 A [MR. ██████████]: I really never heard of Abu Asem before as
4 being the leader of that security convoy.

5 Q [MR. SCHNEIDER]: Try it a different way. Do you know of any
6 reason why Mr. ██████████ might be under the impression, at least relying
7 on it enough to put him in the chart?

8 A [MR. ██████████]: I would--I would defer to ██████████ on that one.

9 Q [MR. SCHNEIDER]: Yes, okay. Where is he today?

10 A [MR. ██████████]: Off the island. I think he's getting ready
11 to head back.

12 Q [MR. SCHNEIDER]: We're not talking about ██████████, we're talking
13 about Mister----

14 A [MR. ██████████]: I have no idea.

15 Q [MR. SCHNEIDER]: Do you know where he is?

16 A [MR. ██████████]: I do not.

17 Q [MR. SCHNEIDER]: Do you know that he was at Guantanamo?

18 A [MR. ██████████]: I did not.

19 Q [MR. SCHNEIDER]: Did anyone ever give you the opportunity to
20 talk to him about who was involved?

21 A [MR. ██████████]: I never asked. I didn't know--I didn't know
22 he was captured. I didn't know his status or anything like that.

1 Q [MR. SCHNEIDER]: Okay. You're unaware that he was actually
2 released, never charged, and he's back home in Morocco, out of
3 custody?

4 A [MR. [REDACTED]]: Didn't know that.

5 Q [MR. SCHNEIDER]: Fair enough?

6 CDC [MR. SCHNEIDER]: No further questions.

7 CTC [MR. MURPHY]: Your Honor, just a little redirect.

8 **REDIRECT EXAMINATION**

9 **Questions by the civilian trial counsel:**

10 Q [MR. MURPHY]: Agent [REDACTED], when you were in Kandahar, did
11 the U.S. control that region? Largely?

12 A [MR. [REDACTED]]: I--I was--we were limited to the airport,
13 and there were patrols that went out at night, so I don't know which
14 areas they controlled outside of the camp, but there were armed
15 convoys when they left--left the camp.

16 Q [MR. MURPHY]: But would it be fair to say there was a large
17 U.S. presence, including military forces, at the time you were there?

18 A [MR. [REDACTED]]: Yes.

19 Q [MR. MURPHY]: And that military presence was apparent to
20 anyone in the region; is that right?

21 A [MR. [REDACTED]]: Yes.

1 Q [MR. MURPHY]: And some of the al Qaeda areas of interest in
2 Kandahar at that time had been targeted and bombed; is that your
3 understanding?

4 A [MR. [REDACTED]]: Yes.

5 Q [MR. MURPHY]: Including Tarnak Farms, including UBL's house,
6 including guest houses?

7 A [MR. [REDACTED]]: Yes, that's my understanding.

8 Q [MR. MURPHY]: And secured by the U.S. at that time; is that
9 your understanding?

10 A [MR. [REDACTED]]: Yes.

11 Q [MR. MURPHY]: At that time there were not active al Qaeda
12 forces living in guest houses and at al Farouq that you were aware
13 of?

14 A [MR. [REDACTED]]: No.

15 Q [MR. MURPHY]: You mentioned that Salim Hamdan cooperated in
16 part but you also testified there were bits and pieces of his story
17 that were missing?

18 A [MR. [REDACTED]]: What I thought, I would have liked--I
19 thought there was more there than I was able to develop.

20 [END OF PAGE]

1 Q [MR. MURPHY]: What was missing in particular, as far as you
2 were concerned, that you would like further development in that you
3 didn't get?

4 A [MR. [REDACTED]]: Deeper explanation of how he got so close to
5 Usama Bin Laden so soon. To have three or four times where he had
6 seen him, came to be his driver. We know from our experience that
7 there's trust between the Yemeni tribes and Bin Laden's background
8 that would cause him to be brought in. You just don't become the
9 general's driver right away. So there--there was an understanding or
10 a feeling there that he was brought in by other people, then he
11 explain to me, and also his relationship with Abu Yassir and some of
12 the photos that were found in that car. I wanted to get deeper into
13 that.

14 Q [MR. MURPHY]: And he would not go there; is that right?

15 A [MR. [REDACTED]]: We weren't able to--I wanted to hear
16 everything and I didn't get more information out of why he got so
17 close to Usama Bin Laden so quickly. And, frankly, I didn't have the
18 opportunities at times to see him again, based on limitations of
19 availability of events.

20 [END OF PAGE]

1 Q [MR. MURPHY]: Was it your impression as an investigator in
2 the time that you were with him that he was holding back some
3 information?

4 A [MR. [REDACTED]]: I thought he knew more than--than I was able
5 to develop; and, therefore, I told Special Agent [REDACTED] and
6 others that he's coming, you should speak to him.

7 Q [MR. MURPHY]: You've worked, of course, in a number of
8 criminal cases where people do cooperate more or less to some extent,
9 greater or lesser; is that right?

10 A [MR. [REDACTED]]: Yes.

11 Q [MR. MURPHY]: Does that in any way absolve anyone from
12 criminal activity when they cooperate, in your eyes, as a FBI agent?

13 A [MR. [REDACTED]]: The people we've spoken to, they've taken
14 plea agreements and agreed to cooperate with us, had been charged or
15 convicted.

16 Q [MR. MURPHY]: And is it your understanding that when someone
17 is truly cooperating with you as an agent, they're telling you
18 absolutely everything; is that right?

19 A [MR. [REDACTED]]: Correct.

20 Q [MR. MURPHY]: Did you get absolutely everything out of Salim
21 Hamdan?

22 A [MR. [REDACTED]]: No.

23

1 Q [MR. MURPHY]: Did he say word one about missiles he was
2 transporting?

3 A [MR. [REDACTED]]: No.

4 Q [MR. MURPHY]: Did he say word one about Saif Al-Adel and the
5 al Qaeda cells then in Kandahar?

6 A [MR. [REDACTED]]: No.

7 Q [MR. MURPHY]: Is the information that you thought he was
8 withholding the type of information that could have been very
9 valuable from an intelligence standpoint?

10 A [MR. [REDACTED]]: Well, had I heard that there were missiles
11 in the car; we would have spent a great amount of time on that, for
12 sure.

13 CTC [MR. MURPHY]: Your Honor, I have nothing further.

14 MJ [CAPT ALLRED]: Very good.

15 CDC [MR. SCHNEIDER]: Couple of quick questions, if I may.

16 **RE CROSS EXAMINATION**

17 **Questions by the civilian defense counsel:**

18 Q [MR. SCHNEIDER]: Agent [REDACTED], did any other federal
19 agency or any other representative of the military or anyone else say
20 word one to you about missiles before you interviewed Mr. Hamdan?
21 Did they say word one? Did they tell you?

22 A [MR. [REDACTED]]: No.

23

1 Q [MR. SCHNEIDER]: Even though they had him for six months;
2 right--or three months?

3 A [MR. [REDACTED]]: From late November through early January, I
4 never heard of anything about missiles.

5 Q [MR. SCHNEIDER]: They didn't say word one?

6 A [MR. [REDACTED]]: No.

7 Q [MR. SCHNEIDER]: Okay. Second question. Photo 64, Al-Haq
8 Wasiq.

9 A [MR. [REDACTED]]: Al-Haq Wasiq.

10 Q [MR. SCHNEIDER]: Um-hum. The fella I think you said was a
11 Taliban person, Taliban Ambassador?

12 A [MR. [REDACTED]]: Correct.

13 Q [MR. SCHNEIDER]: Do you know anything about the Taliban
14 Ambassador by that name being at Bagram Airfield in Jan--late
15 December '01, early January '02?

16 A [MR. [REDACTED]]: I did not know his location, and that's how
17 Mr. Hamdan described him to me, is the Taliban Ambassador in Bagram.

18 Q [MR. SCHNEIDER]: Okay. But no one--no one on our side said
19 he was at Bagram?

20 A [MR. [REDACTED]]: No.

21 [END OF PAGE]

22

23

1 Q [MR. SCHNEIDER]: Okay. You ever met a fellow by the name of
2 Lieutenant Colonel [REDACTED], erroneously identified previously
3 as in these proceedings as [REDACTED]? Ever heard of him?
4 A [MR. [REDACTED]]: [REDACTED]? No.
5 Q [MR. SCHNEIDER]: [REDACTED]?
6 A [MR. [REDACTED]]: It's not familiar to me.
7 Q [MR. SCHNEIDER]: Okay. Last question. I may have
8 misunderstood you. Did you say you don't get to be the general's
9 driver?
10 A [MR. [REDACTED]]: That was my--that was my analogy, yes.
11 Q [MR. SCHNEIDER]: Meaning if the general commits a war crime,
12 the driver's guilty?
13 A [MR. [REDACTED]]: No, that you don't gain access to somebody
14 that important unless you go through a process of trust they can see,
15 so----
16 CDC [MR. SCHNEIDER]: Thank you.
17 MJ [CAPT ALLRED]: Okay. Can Special Agent [REDACTED] be excused
18 and return to the United States?
19 CTC [MR. MURPHY]: Yes, Your Honor, that's the intent. Unless
20 the commission directs otherwise, he will be leaving the island.
21 CDC [MR. SCHNEIDER]: I direct him to leave.
22 MJ [CAPT ALLRED]: It's not my case, it's your case.
23 CDC [MR. SCHNEIDER]: You're free to leave, sir.

1 MJ [CAPT ALLRED]: Thank you, Special Agent [REDACTED], you're
2 free to resume your duties.

3 WIT [MR. [REDACTED]]: Thank you.

4 MJ [CAPT ALLRED]: I propose a recess. 15 minutes. We'll wait
5 while the members withdraw and then we'll recess.

6 BAILIFF: All rise [all persons did as directed and the members
7 exited courtroom].

8 [The witness was excused and withdrew from the courtroom.]

9 MJ [CAPT ALLRED]: We will be back at 10:30.
10 [The military commission recessed at 1011, 24 July 2008.]

11 [The military commission was called to order at 1034, 24 July 2008.]

12 MJ [CAPT ALLRED]: The Court is called to order. Let the record
13 reflect that all members have returned to the courtroom.

14 Mr. Murphy, your next witness, please.

15 CTC [MR. MURPHY]: Yes, Your Honor. The government would call
16 FBI Special Agent [REDACTED].

17 MJ [CAPT ALLRED]: Very good. And here he is.
18 [The witness enters the courtroom.]

19 CTC [MR. MURPHY]: Special Agent [REDACTED], if you could approach
20 the witness stand and face me and raise your right hand to be sworn.

21 [END OF PAGE]

1 [REDACTED], Civilian, was called as a witness for the prosecution,
2 was sworn, and testified as follows:

3 CTC [MR. MURPHY]: Please be seated [did as directed].

4 DIRECT EXAMINATION

5 Questions by the civilian trial counsel:

6 Q [MR. MURPHY]: Would you state your full name and spell your
7 last name for the record.

8 A [MR. [REDACTED]]: [REDACTED]. Last name is spelled
9 [REDACTED].

10 Q [MR. MURPHY]: During the period of February 2002 through
11 March of 2002, who were you employed by and what were your duties?

12 A [MR. [REDACTED]]: I was employed by the Federal Bureau of
13 Investigation as a Special Agent assigned to the New York office, the
14 Joint Terrorism Task Force.

15 Q [MR. MURPHY]: Can you describe for the commission your formal
16 education and your law enforcement training?

17 A [MR. [REDACTED]]: Sure. I have a Bachelor's of Science in
18 Criminal Justice and a Master's in Public Administration. Prior to
19 coming to the Bureau, I was a police officer in New York for nine
20 years.

21 [END OF PAGE]

1 Q [MR. MURPHY]: Do you have any specialized law enforcement
2 training?

3 A [MR. ██████]: Just the basic counterterrorism classes taught
4 in Quantico, Virginia, our academy; as well as classes in New York,
5 and I'm also a Special Agent bomb technician.

6 Q [MR. MURPHY]: Do you speak any languages other than English?

7 A [MR. ██████]: No, I do not.

8 Q [MR. MURPHY]: Did you interview the accused in this case,
9 Salim Hamdan, also known as Saqr al-Jadawi? Did you interview him?

10 A [MR. ██████]: Yes.

11 Q [MR. MURPHY]: And when you undertake this assignment?

12 A [MR. ██████]: Upon to my arrival at Kandahar, Afghanistan,
13 deployment site. It was early February 2002.

14 Q [MR. MURPHY]: And did you, in fact, interview him with other
15 persons?

16 A [MR. ██████]: Yes, I did.

17 Q [MR. MURPHY]: I'd like you to look around the courtroom and
18 see if you recognize that person you interviewed, Salim Hamdan, and
19 if you can, point to him and identify an article of clothing that
20 he's wearing?

21 A [MR. ██████]: Sure. Mr. Hamdan **[pointing to the accused]** is
22 seated three seats to the right, at the defense table, wearing

1 traditional Islamic clothing colored white, as well as a tan suit
2 jacket.

3 CTC [MR. MURPHY]: Your Honor, let the record reflect that the
4 witness has properly identified the accused in this case.

5 MJ [CAPT ALLRED]: Very well.

6 Q [MR. MURPHY]: Specifically, what time period did you
7 interview him?

8 A [MR. [REDACTED]]: February, March, 2002.

9 Q [MR. MURPHY]: And where, specifically, did you interview him?

10 A [MR. [REDACTED]]: At the U.S. military detention facility, which
11 was located in the Kandahar International Airport, in Kandahar,
12 Afghanistan.

13 Q [MR. MURPHY]: Can you describe for us generally the United
14 States Army temporary detention facility at Kandahar International
15 Airport? Lay it out for us.

16 A [MR. [REDACTED]]: Sure. It was basically on the airport grounds.
17 The facility was located in an already existing compound with
18 approximately 15-foot cement walls, tan colored. I did not have
19 access to the facility; rather, just the interrogation facility that
20 was attached.

21 Q [MR. MURPHY]: How many times did you interview Salim Hamdan?

22 A [MR. [REDACTED]]: A total of four times.

23

1 Q [MR. MURPHY]: And could you describe the location at the site
2 where you interviewed him. Talk about the rooms for us.

3 A [MR. [REDACTED]]: Sure. As I stated, the interrogation facility
4 was basically set up--basically attached to the detention facility
5 but not part of it. It had razor wire all the way around. There
6 were approximately six military tents, three on each side, which
7 allowed us to conduct interviews; basically it.

8 Q [MR. MURPHY]: Okay. And there were other people in the
9 interview rooms with you?

10 A [MR. [REDACTED]]: Yes.

11 Q [MR. MURPHY]: Who were they?

12 A [MR. [REDACTED]]: Consisted of, usually an Army CID agent, my
13 partner, as well as a translator.

14 Q [MR. MURPHY]: In what language was the interview conducted?

15 A [MR. [REDACTED]]: In Arabic.

16 Q [MR. MURPHY]: And there was a translation process for those
17 in the room like yourself, who did not understand Arabic?

18 A [MR. [REDACTED]]: Yes.

19 Q [MR. MURPHY]: Please describe that translation process in
20 some particularity, how your question got translated and how
21 information came back that you could understand.

22 A [MR. [REDACTED]]: Sure. Upon requesting access to the detainees,
23 specifically Mr. Hamdan, we would be assigned a military translator.

1 And we introduced ourselves to the translator, since we used various
2 translators that were available.

3 Prior to the interview, we would ask the translator please
4 request or ask that the question be asked in Arabic verbatim, since
5 we would request that the elicited response be exactly as to the
6 question we had asked.

7 So the translator would basically take our question in
8 English, translate in Arabic, provide it to Mr. Hamdan, and then
9 provide a verbatim response as to what Mr. Hamdan's response to the
10 question.

11 Q [MR. MURPHY]: Describe for us, please, the seating
12 arrangements in the interview rooms.

13 A [MR. ████████]: Sure. The tents held approximately six people
14 comfortably. When Mr. Hamdan was brought in, into the entrance of
15 the tent, there was a small, basically a folding table and a number
16 of folding chairs. Mr. Hamdan would be brought in through the
17 entrance, around the table, and seated on one side of the table. And
18 then depending on how many people were present for the interview,
19 there would be a number of folding chairs on the opposite side.

20 Q [MR. MURPHY]: How close were you and the other participants
21 physically to the accused during your interviews?

22 A [MR. ████████]: Approximately two to three feet.

23

1 Q [MR. MURPHY]: How would you describe the tone of the
2 interviews with Salim Hamdan?

3 A [MR. ██████]: Conversational, non-confrontational, very
4 personable.

5 Q [MR. MURPHY]: Did you or anyone else in the interview rooms
6 ever yell at Salim Hamdan or act in any manner that you would
7 consider threatening?

8 A [MR. ██████]: Absolutely not. Actually, for the time that we
9 interviewed Mr. Hamdan, basically our kind of interview as FBI agents
10 and the other people present, if they had questions, we would ask
11 them to please pose it to us first and then we would ask--if the
12 question was something we would be interested in, we would ask the
13 translator to ask Mr. Hamdan in Arabic.

14 Q [MR. MURPHY]: At any time during your interviews with Salim
15 Hamdan, did he ever claim to you that he was abused, mistreated or
16 tortured by anyone at any time?

17 A [MR. ██████]: No.

18 Q [MR. MURPHY]: Did the accused ever tell you that he was
19 forced to speak against his will or that he made up false information
20 to please interviewers or made up false information for any reason?

21 A [MR. ██████]: No.

22

23

1 Q [MR. MURPHY]: Did you provide him with an opportunity to eat
2 and drink food during the interviews?

3 A [MR. [REDACTED]]: Yes. Our interview times over the four times
4 we spoke to Mr. Hamdan were various times during the day. We would
5 actually bring water in for us as well as Mr. Hamdan, snacks. And
6 then depending on what time, if we were going to be interviewing him
7 during a meal time, we would bring MREs for him and us as well, to
8 eat.

9 Q [MR. MURPHY]: Did he show a willingness to talk to you?

10 A [MR. [REDACTED]]: Yes.

11 Q [MR. MURPHY]: And how did he express at that willingness?

12 A [MR. [REDACTED]]: Basing on him answering our questions, we felt
13 that he was forthright.

14 Q [MR. MURPHY]: Did you provide him with any rights
15 advisements, such as Article 31 warnings under the UCMJ or
16 Miranda-type warnings?

17 A [MR. [REDACTED]]: No.

18 Q [MR. MURPHY]: And why was that?

19 A [MR. [REDACTED]]: FBI policy.

20 Q [MR. MURPHY]: Has anyone told you that that policy was in any
21 way unlawful or against U.S. policy?

22 A [MR. [REDACTED]]: No.

23

1 Q [MR. MURPHY]: Was it your understanding as a FBI agent that
2 this was permitted under the United States law?

3 A [MR. ██████]: Yes.

4 Q [MR. MURPHY]: Was it clear to you that the accused was free
5 to speak with you or not speak to you during the course of your
6 interviews with him?

7 A [MR. ██████]: Yes.

8 Q [MR. MURPHY]: And how was that made clear to you?

9 A [MR. ██████]: Oh, by his willingness to speak.

10 Q [MR. MURPHY]: How--how long in time were the interview
11 sessions, approximately? Why don't we first approach with
12 individually and then total up all the time, approximately you spent
13 with him?

14 A [MR. ██████]: Generally, our interview block was between two
15 and four hours.

16 Q [MR. MURPHY]: Four hours?

17 A [MR. ██████]: Correct.

18 Q [MR. MURPHY]: And how much time would you estimate in total
19 you spent with him?

20 A [MR. ██████]: Eight hours, and within the interview
21 facilities.

22

23

1 Q [MR. MURPHY]: Right. And there were other parts of your
2 contact with him that we'll discuss later; is that right?

3 A [MR. [REDACTED]]: Correct.

4 Q [MR. MURPHY]: You're referring specifically to--at the
5 detention facility interviewing?

6 A [MR. [REDACTED]]: Correct.

7 Q [MR. MURPHY]: Okay. Was it important to you as a law
8 enforcement agent that the information you got from him was both
9 reliable and accurate?

10 A [MR. [REDACTED]]: Absolutely.

11 Q [MR. MURPHY]: And why was that particularly important in this
12 case?

13 A [MR. [REDACTED]]: For two reasons: one being for the military's
14 battlefield and tactical intelligence purposes, as well as for our
15 FBI investigations both home and abroad.

16 Q [MR. MURPHY]: Did you prepare FBI Form 302s that summarized
17 your interviews with the accused?

18 A [MR. [REDACTED]]: Yes.

19 Q [MR. MURPHY]: And have you reviewed those reports in
20 preparation for your testimony today?

21 A [MR. [REDACTED]]: Yes, I have.

22

23

1 Q [MR. MURPHY]: I'm going to talk to you now a little bit about
2 something that happened outside the detention facility, and there are
3 two phases of this; is that correct?

4 A [MR. ██████]: Correct.

5 Q [MR. MURPHY]: First I'm going to direct your attention to 12
6 February 2002. On that date you went on a mission, is that right?

7 A [MR. ██████]: That's correct.

8 Q [MR. MURPHY]: And did you and others accompany the accused on
9 a mission by physically taking him to certain areas in the Northern
10 District of Kandahar?

11 A [MR. ██████]: Yes, we did.

12 Q [MR. MURPHY]: And, specifically, did you take him to two
13 separate locations at that time?

14 A [MR. ██████]: Yes.

15 Q [MR. MURPHY]: How was this mission arranged?

16 A [MR. ██████]: It was actually initiated by Special Agent
17 ██████, who I relieved when I arrived at Kandahar. He initially
18 requested through the military access to Mr. Hamdan's ability to
19 leave the facility and to travel to various locations within Kandahar
20 to identify al Qaeda locations.

21 [END OF PAGE]

1 Q [MR. MURPHY]: All right. We'll go into the details in a
2 moment, but why don't you just first identify where are the two
3 separate locations you went to on that 12 February 2002 mission?

4 A [MR. ██████]: The first consisted of a UBL residence, and the
5 second was a UBL compound in close vicinity to another UBL guest
6 house.

7 Q [MR. MURPHY]: All right. And was Salim Hamdan able to
8 describe one of UBL's houses and the compound surrounding that house
9 in northern Kandahar?

10 A [MR. ██████]: Yes, he was.

11 Q [MR. MURPHY]: Where is it located?

12 A [MR. ██████]: In the Northern District of Kandahar.

13 Q [MR. MURPHY]: What did the accused tell you about UBL's home
14 and compound?

15 A [MR. ██████]: Described it as a large compound that had
16 between 20 and 30 guards, and numerous weapons to include AK-47s,
17 RPGs, and PK machine guns.

18 Q [MR. MURPHY]: Did Salim Hamdan identify the head of security
19 at that particular compound?

20 A [MR. ██████]: Yes, he did.

21 Q [MR. MURPHY]: And what did he say?

22 A [MR. ██████]: He stated that his name was Saif Al-Adel.

23

1 Q [MR. MURPHY]: Saif Al-Adel?

2 A [MR. [REDACTED]]: Correct.

3 Q [MR. MURPHY]: As part of your work as an investigator, do you
4 know about Saif Al-Adel?

5 A [MR. [REDACTED]]: Yes, I do.

6 Q [MR. MURPHY]: What do you know?

7 A [MR. [REDACTED]]: That he ran security operations for al Qaeda
8 and was the chief UBL security.

9 Q [MR. MURPHY]: And referring specifically to this compound,
10 did Salim Hamdan talk to you about if UBL was about to leave this
11 compound, was this a procedure known to the accused that Hamdan would
12 follow?

13 A [MR. [REDACTED]]: Yes, there was.

14 Q [MR. MURPHY]: What did he say?

15 A [MR. [REDACTED]]: He stated prior to UBL leaving the compound, he
16 would be notified by Saif Al-Adel, chief of security that
17 approximately two to four hours before leaving the compound to
18 prepare to leave.

19 Q [MR. MURPHY]: He knew that before?

20 A [MR. [REDACTED]]: Excuse me?

21 Q [MR. MURPHY]: Knew that before?

22 A [MR. [REDACTED]]: Correct.

23

1 Q [MR. MURPHY]: And did he talk to you, Salim Hamdan, about two
2 distinct security plans in place that the accused knew about and
3 would follow if UBL's compound came under attack?

4 A [MR. ██████]: Yes.

5 Q [MR. MURPHY]: What did he say?

6 A [MR. ██████]: He stated if the compound was attacked from the
7 rear that the guard would try to defend the compound and allow ample
8 time for UBL to leave through the front entrance.

9 If the compound was attacked from the front, there was no
10 other access and that they would have to fight--fight to protect the
11 compound.

12 Q [MR. MURPHY]: All right. Now, let's go specifically to your
13 mission on 12 February 2002. Were photographs taken of this mission
14 in northern Kandahar that you're able to identify now?

15 A [MR. ██████]: Yes.

16 Q [MR. MURPHY]: How were these photos taken?

17 A [MR. ██████]: Using a Sony Mavica camera which would--
18 basically allow the images to be captured on a 3 by 5 floppy that you
19 inserted in the side of the camera.

20 CTC [MR. MURPHY]: Your Honor, the first set of photos consists
21 of 18 images, the first of which has been provisionally admitted.
22 It's photo number 6, and it's marked as Exhibit 22.

1 I would recommend or offer to the commission that we first
2 scroll through all 18 for the Military Judge to view and then show
3 those, all 18, to the witness to see if he can identify them. And,
4 with permission, the Commission would show them to you at this time.

5 MJ [CAPT ALLRED]: Very well. Go ahead. Okay. You can go
6 through them pretty quickly. Okay. I've seen enough. I don't think
7 I need to see all 18.

8 CTC [MR. MURPHY]: Okay.

9 MJ [CAPT ALLRED]: You could show them directly to the witness.

10 Q [MR. MURPHY]: All right. I would like--ask that we scroll
11 through quickly, because you are familiar with these photos; is that
12 correct?

13 A [MR. [REDACTED]]: Correct.

14 Q [MR. MURPHY]: All 18, very quickly, for the witness. Okay.
15 You're familiar with these photos? We've looked at them before; is
16 that correct?

17 A [MR. [REDACTED]]: That's correct.

18 Q [MR. MURPHY]: All right. Let's turn to the very first photo?

19 MJ [CAPT ALLRED]: Has the witness seen the photos now?

20 WIT [MR. [REDACTED]]: Yes, sir.

21 CTC [MR. MURPHY]: Your Honor, because I would like to do this
22 with the members watching----

23

1 MJ [CAPT ALLRED]: Does--does the defense have any objection to
2 authenticity with respect to these photos?

3 CDC [MR. SWIFT]: We do not.

4 MJ [CAPT ALLRED]: Can they just be admitted without----

5 CDC [MR. SWIFT]: They can.

6 MJ [CAPT ALLRED]: ----Objection, then?

7 CTC [MR. MURPHY]: Your Honor, the first exhibit, it should be
8 marked as 60, which is the next exhibit in order, but the sixth
9 exhibit should be marked, as previously marked, as 22. So we're
10 going to 60 up to 64, then 22, and then pick up at 65, and I'll
11 identify those by those numbers.

12 MJ [CAPT ALLRED]: Okay. Are those the correct numbers? Okay.
13 Then these are admitted into evidence without objection from the
14 defense.

15 CTC [MR. MURPHY]: All right.

16 MJ [CAPT ALLRED]: Please go ahead and show them to the witness.

17 Q [MR. MURPHY]: Let's take a look at the first----

18 MJ [CAPT ALLRED]: ----and the members.

19 Q [MR. MURPHY]: ----marked as 60. You recognize that photo; is
20 that right?

21 A [MR. REDACTED]: Yes, I do.

22

23

1 Q [MR. MURPHY]: What are we looking at there?

2 A [MR. ██████]: Well, just for reference. This is a wide dirt
3 road that level off from the main road, which was paved, between
4 Kandahar Airport to the main paved road which led from Spin Boldak--
5 it was on the border of Pakistan--and the city of Kandahar proper.

6 So when we left, we exited the paved road, which is in the
7 background there, and we drove up this long dirt road to go to the
8 first UBL compound.

9 Q [MR. MURPHY]: And you had Salim Hamdan in your custody during
10 this time; is that right?

11 A [MR. ██████]: Correct.

12 Q [MR. MURPHY]: All right. Let's turn to the photo marked as
13 61. Tell us what we're looking at there.

14 A [MR. ██████]: It's basically a shot taken further down the
15 road as you proceeded to the first UBL compound.

16 Q [MR. MURPHY]: Going to 62, the third photo.

17 A [MR. ██████]: Additionally showing further drive down this
18 dirt road, which starts to narrow now.

19 Q [MR. MURPHY]: Okay. And what are we seeing in the foreground
20 there?

21 A [MR. ██████]: That's actually the second compound that
22 Mr. Hamdan identified for us as a UBL compound. But as I stated
23 before, we were proceeding to the first compound, which is, I would

1 say, farther west than this second location that is identified in the
2 photograph.

3 Q [MR. MURPHY]: Okay. Let's go on to photo 4, marked as 63.
4 What are we looking at there?

5 A [MR. [REDACTED]]: A close-up, zoom shot of the second UBL
6 compound, which was still intact and was actually the probably the
7 nicest and largest compound in the whole neighborhood.

8 Q [MR. MURPHY]: All right. And what did you see? Did--I know
9 we get a little glimpse of it there, but as your understanding there
10 looking at it, what's the impression of this area that you get?

11 A [MR. [REDACTED]]: The whole area around is poor but this compound
12 is in great shape, well-maintained. It's the tallest--tallest couple
13 buildings in the neighborhood, basic three-story building. And the
14 top has blue paint, and then there was some Arabic writing on both
15 front of the building.

16 Q [MR. MURPHY]: All right. Let's go to the next photo, 64.
17 What do we see there?

18 A [MR. [REDACTED]]: This is actually returning from the initial
19 compound, driving back towards the perimeter road, which is that
20 paved road I explained to you. And what we did was proceed north
21 onto a smaller road, which would bring us towards this second UBL
22 compound.

23

1 Q [MR. MURPHY]: All right. Let's go to the next image, 6,
2 which has previously been identified as 22. Tell us what we're
3 looking at there?

4 A [MR. ██████]: We're now proceeding on this other road, along
5 the side of the perimeter of this compound.

6 Q [MR. MURPHY]: Next exhibit, 65?

7 A [MR. ██████]: Basically the same shot as the last one.

8 Q [MR. MURPHY]: 66, next image?

9 A [MR. ██████]: Another shot, a little grainier than the last,
10 but it shows a little closer the second and third story of the
11 compound as well as the Arabic writing.

12 Q [MR. MURPHY]: 67?

13 A [MR. ██████]: This is proceeding down that smaller dirt road
14 alongside the compound.

15 Q [MR. MURPHY]: 68?

16 A [MR. ██████]: Additionally, that smaller side road off the
17 perimeter road that allows access to the back side of that second
18 intact compound.

19 Q [MR. MURPHY]: 69?

20 A [MR. ██████]: This is basically, by turning left here with a
21 small pickup truck, we would be running parallel with that main, wide
22 dirt perimeter road. And that's basically where we're going to
23 proceed. We're going to follow him, following that truck.

1 Q [MR. MURPHY]: 70?

2 A [MR. ██████]: This shows the dead end road that runs parallel
3 with the main dirt road, which brings us between that second UBL
4 compound that was intact and on the other side will be a third
5 location that he identifies as another UBL guest house.

6 Q [MR. MURPHY]: 71?

7 A [MR. ██████]: This is showing an entrance to the safe
8 house/guesthouse that he identifies as our third location on the
9 first trip.

10 Q [MR. MURPHY]: 72?

11 A [MR. ██████]: Overall shot of that dead end road that we
12 drove on.

13 Q [MR. MURPHY]: 73?

14 A [MR. ██████]: Here's a gate to the compound.

15 Q [MR. MURPHY]: 74?

16 A [MR. ██████]: Another overall dead end street that we drove
17 on.

18 Q [MR. MURPHY]: 75?

19 A [MR. ██████]: This is a back gate to that second compound
20 that was well intact and had two to three stories and had the Arabic
21 writing on it that we showed--that was shown in the previous
22 photographs.

23

1 Q [MR. MURPHY]: And 76?

2 A [MR. [REDACTED]]: And that close-up of the compound wall that
3 circled the second compound, as well as the second and third stories
4 of the building.

5 Q [MR. MURPHY]: And what did Salim Hamdan say to you about the
6 images that we've just gone through in this first set?

7 A [MR. [REDACTED]]: I don't know if he was shown the photographs
8 but----

9 Q [MR. MURPHY]: ----right, but----

10 A [MR. [REDACTED]]: ----It's a representation of----

11 Q [MR. MURPHY]: That area?

12 A [MR. [REDACTED]]: ----what he identified for us when we were out
13 on the first mission.

14 Q [MR. MURPHY]: And what did he say specifically about this
15 area, its significance?

16 A [MR. [REDACTED]]: That it was a UBL compound and this particular
17 one was still in good shape. The first compound, when we arrived to
18 it, it was destroyed, there was no roof left on the compound. Some
19 of the walls were reduced to rubble. And he advised when--the last
20 time he saw it, that first compound was well intact. It was
21 obviously destroyed when we approached it this--on our first mission.

22

23

1 Q [MR. MURPHY]: All right. Let's go on to your second mission,
2 now. Was that on March 13, 2002?

3 A [MR. [REDACTED]]: Correct.

4 Q [MR. MURPHY]: Did you accompany the accused on a second
5 specific mission of Kandahar, Afghanistan, on that date, March 13th,
6 2002?

7 A [MR. [REDACTED]]: Yes, I did.

8 Q [MR. MURPHY]: And, again, did you physically go with him to
9 certain areas in Kandahar?

10 A [MR. [REDACTED]]: Yes.

11 Q [MR. MURPHY]: And specifically, did you go to three separate
12 locations?

13 A [MR. [REDACTED]]: Yes, we did.

14 Q [MR. MURPHY]: And before we get into the details of what they
15 are, just identify the three separate locations?

16 A [MR. [REDACTED]]: Well, the first location was the Arab guest
17 house that Mr. Hamdan stayed in when he arrived at Kandahar. The
18 second location was a cemetery, a very large cemetery, in the
19 Northern District of Kandahar. And then the third location was
20 Tarnak Farms, one of UBL's compounds. He estimated approximately 20
21 minutes south of the airport where we were based and where the
22 detention was located.

23

1 Q [MR. MURPHY]: And how was this mission arranged?

2 A [MR. ██████]: Similar to the first. Basically, I don't know
3 how far up the chain of command in the military the decision had to
4 go to, to be approved, but it took several weeks for us to get the
5 approval. And based on the success of the first mission, I think
6 that greatly assisted us with getting Mr. Hamdan released to our
7 custody again to go out.

8 Q [MR. MURPHY]: All right. During the second mission, did the
9 accused----

10 CTC [MR. MURPHY]: We can go to blank on this screen before we
11 go to the next set of photos.

12 Q [MR. MURPHY]: During the second mission, did the accused
13 identify an Arab guesthouse of significance to you on this second
14 tour?

15 A [MR. ██████]: Yes, he did.

16 Q [MR. MURPHY]: Please describe what he said about it?

17 A [MR. ██████]: He provided the context to us in regards to the
18 first mission we went on, approximately to that dirt perimeter road
19 that ran off the main paved road, which he described as several,
20 several blocks over, parallel with that dirt perimeter road, was the
21 Arab guest house that he had stayed in when he came to Kandahar.

22 The guesthouse was described to us initially as a nine-foot
23 walled compound colored white, which was on the same side of the

1 street as a mosque in the neighborhood, separated by a smaller street
2 and a house. He described the compound as having a main structure,
3 two-story, painted white, which had 12 rooms. There were--there was
4 a green gate and a green sliding gate which allowed vehicle access,
5 which the compound had two vehicles that they maintained for
6 transporting guests.

7 There was a courtyard as soon as you entered, which had
8 numerous trees in it. And that basically describes the guesthouse,
9 as best I can remembered.

10 Q [MR. MURPHY]: Okay. Did he tell you the date he stayed at
11 that Arab guesthouse?

12 A [MR. ██████]: He estimated spring, summer, 1998.

13 Q [MR. MURPHY]: Was he given a nickname while he stayed at that
14 guesthouse?

15 A [MR. ██████]: Yes, he was.

16 Q [MR. MURPHY]: And what was that?

17 A [MR. ██████]: Abu Saqr.

18 Q [MR. MURPHY]: How did he get that nickname?

19 A [MR. ██████]: From another Yemeni that was at the guest house
20 named Ali Yafi.

21 Q [MR. MURPHY]: And is there a specific Arabic phrase for the
22 nickname?

23 A [MR. ██████]: Yes.

1 Q [MR. MURPHY]: What is that?

2 A [MR. [REDACTED]]: Kunya.

3 Q [MR. MURPHY]: Now, before you actually went on this second
4 mission that we're about to talk about, during the course of your
5 interviews with the accused did you ask him to draw a picture of this
6 particular Arab guest house located in northern Kandahar?

7 A [MR. [REDACTED]]: Yes, we did.

8 Q [MR. MURPHY]: Was he able to do it?

9 A [MR. [REDACTED]]: Yes.

10 Q [MR. MURPHY]: I'm going to show you what's marked--will be
11 marked next in order Exhibit 77.

12 CTC [MR. MURPHY]: Your Honor, I don't believe any of this is
13 controverted. I don't know if we should go through the procedure of
14 showing it to you first each time.

15 MJ [CAPT ALLRED]: I don't need to.

16 CTC [MR. MURPHY]: Okay. If we could show the witness Exhibit
17 77.

18 MJ [CAPT ALLRED]: For identification.

19 CTC [MR. MURPHY]: For identification.

20 Q [MR. MURPHY]: Do you recognize that?

21 A [MR. [REDACTED]]: Yes, I do.

22

23

1 Q [MR. MURPHY]: What is that?

2 A [MR. ██████]: It's basically a hand drawn map depicting where
3 this Arab guesthouse was located in Kandahar.

4 Q [MR. MURPHY]: And were you there when it was prepared?

5 A [MR. ██████]: Yes. The date the pic--the date we drew the
6 map with him, on February 17th, 2002.

7 CTC [MR. MURPHY]: Your Honor, I would offer 77 into evidence at
8 this time. I would ask that it be published to the members and to
9 all.

10 CDC [MR. SWIFT]: Without objection, Your Honor.

11 MJ [CAPT ALLRED]: Very well. 77 is admitted without objection.
12 Please show it to the members and to the gallery.

13 Q [MR. MURPHY]: Now, that we're looking at it, can you describe
14 how it was drawn, who draw what, and what is depicted there?

15 A [MR. ██████]: This is **[examining PE 77]**.

16 Q [MR. MURPHY]: And if you want to use the larger screen behind
17 you, if that's easier, that's fine.

18 A [MR. ██████]: When we met with Mr. Hamdan, he was able to
19 provide--gave him a pen, I think it was a pen, and he was able to
20 show where these other locations were from our first mission with
21 him, to show in relation to where this Arab guest house was that he
22 stayed in.

1 So initially he drew the--he drew a line here depicting
2 this street. This was the first UBL compound that was destroyed. He
3 said that 20 to 30 guards would be stationed there. And then this is
4 where we had driven with him down that dead end street to identify
5 the second UBL compound that was two to three stories with blue
6 writing. And the guesthouse was on the other side of that building.

7 So with that in mind, he continued to draw a line down here
8 depicting the roadway to finding this other Arab guesthouse that he
9 had stayed at. And, obviously, as he was describing things with the
10 lines, he would tell us how it was depicted; the canal/river that he
11 described was for the first compound, destroyed UBL compound, and the
12 second story UBL residence. And this is our writing based on how he
13 explained where this Arab guest house was located.

14 CTC [MR. MURPHY]: All right. Your Honor, I would ask that we
15 capture the annotations and mark it as 77a. I would offer it into
16 evidence at this time.

17 MJ [CAPT ALLRED]: Very well.

18 Q [MR. MURPHY]: And this--just so we're clear, this was drawn
19 before the second mission; is that right?

20 A [MR. [REDACTED]]: Yes.

21 Q [MR. MURPHY]: Before you ever went out there?

22 A [MR. [REDACTED]]: Correct.

23

1 Q [MR. MURPHY]: All right. What is your understanding of what
2 was happening generally at this particular guesthouse?

3 A [MR. [REDACTED]]: He advised us that when he arrived there, he
4 stayed two days at this particular guest house before he left for his
5 training. And based on other interviews and what we knew from our
6 investigation back home, it was known that the gate house was a
7 transit way for both trainees coming in, dropping off their stuff,
8 and depending on what camp, having to fill out a camp application,
9 and then they would be transported to the training camps. And the
10 same way for when they returned back from training, they would go
11 through the guesthouse, obtain their personal property, and then
12 transported to wherever they needed to go to go back home or wherever
13 training opportunities they had.

14 Q [MR. MURPHY]: On the second mission, were photos taken?

15 A [MR. [REDACTED]]: Yes.

16 Q [MR. MURPHY]: And are you able to identify these photos
17 today?

18 A [MR. [REDACTED]]: Yes.

19 CTC [MR. MURPHY]: Your Honor, with permission of the court, I
20 will go straight to the witness with these photos and I'll go through
21 them one at--one at a time and ask----

22 MJ [CAPT ALLRED]: Well, let's ask if there's any--do you want
23 the government to lay the foundation for these photos before they are

1 shown to the witness and the members and described.

2 CDC [MR. SWIFT]: No, I do not, Your Honor.

3 CTC [MR. MURPHY]: Your Honor, then I would offer to admit all
4 of them. There are seven in this series that would comprise Exhibits
5 78 through 84.

6 MJ [CAPT ALLRED]: Very well. Without objection, Prosecution
7 Exhibits 78 through 84 are admitted into evidence. Please show them
8 to the members and to the witness.

9 Q [MR. MURPHY]: Let's start with the first exhibit, 78.

10 If I could get some assistance in removing the lines from
11 the previous diagram.

12 All right. What are we looking at, Agent [REDACTED], in the
13 first exhibit, 78?

14 A [MR. [REDACTED]]: Well, just for directional purposes, I suppose,
15 he--the main perimeter road would be to your right, that dirt road
16 that we went on from the first mission. And then this is running in
17 parallel with this perimeter road, a smaller road, but on the left
18 is--he identified the Arab guest house that he stayed at when he was
19 in Kandahar.

20 Q [MR. MURPHY]: All right. And just like before, the accused
21 was in your custody during his trip; is that right?

22 A [MR. [REDACTED]]: Yes, he is.

1 Q [MR. MURPHY]: Let's turn now to the next slide in this
2 series, 79. What are we looking at there?

3 A [MR. [REDACTED]]: A close-up of the gate which allowed the
4 vehicles to access the courtyard area directly behind this wall.

5 Q [MR. MURPHY]: Turning to the next, 80.

6 A [MR. [REDACTED]]: A close-up showing a partial view of the
7 vehicle access gate, as well as the painted perimeter wall for the
8 compound.

9 Q [MR. MURPHY]: 81?

10 A [MR. [REDACTED]]: This is a little bit further. This would be
11 western direction on this road, which depicts a partial view of the
12 metal green gate which allowed pedestrian access to the compound.

13 Q [MR. MURPHY]: 82?

14 A [MR. [REDACTED]]: This is depicting the corner of the compound.

15 Q [MR. MURPHY]: 83?

16 A [MR. [REDACTED]]: And as he had stated before we went out on this
17 mission, in close relationship to the guest house location, on the
18 same side of the street was a mosque, which he identified as this.
19 And, thus, we took a photograph of the entrance to the mosque.

20 Q [MR. MURPHY]: And 84?

21 A [MR. [REDACTED]]: And this is the remaining shot of the top of
22 the mosque over the perimeter wall of the mosque compound.

1 Q [MR. MURPHY]: All right. Could we go back to Exhibit 77,
2 please? This diagram was done before the tour; is that right?

3 A [MR. ██████]: Correct.

4 Q [MR. MURPHY]: Does it accurately reflect what you saw?

5 A [MR. ██████]: Yes, it does.

6 Q [MR. MURPHY]: Can you point to anything in there in
7 particular that was reflected in the photos?

8 A [MR. ██████]: All depicting the same street, from the same
9 side of the street as the guesthouse that he stayed at is the mosque.
10 And I don't believe we had a photograph of a side road, per se, but
11 we took photographs based on his identification in relation to this
12 map that he drew of the two locations on our mission.

13 CTC [MR. MURPHY]: All right. If we could fade black on this
14 image.

15 Q [MR. MURPHY]: I'll ask you for the next part of this same
16 tour. And, specifically, did the accused identify a specific
17 cemetery of significance during this second mission in Kandahar?

18 A [MR. ██████]: Yes, he did.

19 Q [MR. MURPHY]: Please describe what he told you about it.

20 A [MR. ██████]: He had advised us that the cemetery, which was
21 a very large cemetery in close proximity to both mission sites he
22 went to, contained the body of Abu Hafs Al-Masri, who he stated he
23 assisted in burying after Abu Hafs Al-Masri's house was bombed.

1 So I recall asking him, "Well, how do you know that it was
2 him?" And he stated that the building had actually collapsed on him.
3 He wasn't killed from the explosives, per se, but he--basically had
4 the building implode on him. So he was able to identify his face.
5 And several other associates of UBL proceeded to transport Abu Hafs
6 Al-Masri to the cemetery area, whereupon during this mission he drove
7 us to the cemetery and area to where he had buried Abu Hafs Al-Masri.

8 Q [MR. MURPHY]: What have you learned about Abu Hafs Al-Masri?

9 A [MR. ██████]: I know that he was in charge of the military
10 aspect for al Qaeda.

11 Q [MR. MURPHY]: Now, you've seen three photographic images of
12 this cemetery; is that correct?

13 A [MR. ██████]: Right.

14 Q [MR. MURPHY]: And you are able to identify them?

15 A [MR. ██████]: Yes.

16 CTC [MR. MURPHY]: Your Honor, without objection, I would offer
17 the next set of three, which would be 85, 86, and 87 at this time.

18 MJ [CAPT ALLRED]: Mr. Swift?

19 CDC [MR. SWIFT]: Without objection, Your Honor.

20 MJ [CAPT ALLRED]: Very well.

21 Q [MR. MURPHY]: Let's turn to the next slide, which is now
22 marked as Exhibit 85. Do you recognize that?

23 A [MR. ██████]: Yes, I do.

1 Q [MR. MURPHY]: What is that?

2 A [MR. ██████]: It's overall of the cemetery I've just
3 described.

4 MJ [CAPT ALLRED]: Can we show this to the gallery?

5 CTC [MR. MURPHY]: I'm sorry; I should have asked that it be
6 published. Yes, Your Honor.

7 Q [MR. MURPHY]: All right. Please start again.

8 A [MR. ██████]: This is an overall area of the cemetery in the
9 Northern District of Kandahar, depicting numerous grave sites.

10 Q [MR. MURPHY]: All right. And what did the accused tell you
11 was of this grave site?

12 A [MR. ██████]: He advised that Abu Hafs was buried in this
13 cemetery, so we were attempting to identify with him as to a specific
14 grave site that he recalls assisting burying Abu Hafs.

15 Q [MR. MURPHY]: All right. Let's take at the next slide marked
16 86. What do we see there?

17 A [MR. ██████]: Another area of the cemetery. And based on the
18 way we were at this location, we needed to turn around to exit the
19 cemetery area. So this photograph is actually prior to us turning
20 around and turning around to go back to the perimeter road to leave,
21 and during which we came upon a funeral at the time.

22

23

1 Q [MR. MURPHY]: And 86--or 87, I should say. 87 is the last.

2 A [MR. [REDACTED]]: This is after turning around and going in
3 reverse direction. And Mr. Hamdan identified this particular area as
4 where Abu Hafs Al-Masri was buried.

5 Q [MR. MURPHY]: Were you able to identify the exact burial
6 mound?

7 A [MR. [REDACTED]]: No. At the time we were concerned. There were
8 a large number of people in the area, and the other U.S. forces I was
9 with decided we needed to get out of that area.

10 Q [MR. MURPHY]: Was it out of further exploitation of this that
11 you felt it could not be carried out?

12 A [MR. [REDACTED]]: Yes. At the time I was not under the
13 understanding that Abu Hafs Al-Masri was confirmed dead. So upon
14 returning back to the detention facility, dropping Mr. Hamdan off
15 with the military police, proceeded to our small office that we
16 maintained in the airport building and called our headquarters and
17 asked them if we could look at getting permission to go back out and
18 try to identify Abu Hafs either through DNA or through other means
19 to--to properly identify him.

20 CTC [MR. MURPHY]: All right. I would ask that we fade to black
21 on this screen.

22

23

1 Q [MR. MURPHY]: And now turning to another aspect of the tour,
2 did you the accused talk to you about traveling in a convoy with UBL
3 from Kandahar International Airport to Tarnak Farms in a particular
4 vehicle in August 2001?

5 A [MR. ██████]: Yes, he did.

6 Q [MR. MURPHY]: What did he say about this?

7 A [MR. ██████]: He stated at that time period he had driven
8 with UBL on two occasions from Kandahar to the--Kandahar airport area
9 to the later identified Tarnak Farms compound. The first time UBL
10 was in the back seat of a black Hilux, and then the second time we
11 discussed further.

12 Q [MR. MURPHY]: Did the accused as part of your work with him
13 on the second mission, direct you to a specific location of
14 significance to you south of the Kandahar airport?

15 A [MR. ██████]: Yes, he did.

16 Q [MR. MURPHY]: And what is that place commonly referred to?

17 A [MR. ██████]: Tarnak Farms.

18 Q [MR. MURPHY]: And tell us where he took you. Give us some
19 directional sense of where that is.

20 A [MR. ██████]: Well, he, just prior to going out on this
21 second mission, from a previous interview he advised as to on the
22 first mission when we left the airport compound there's basically a
23 wide intersection. If we proceeded to the left from that wide

1 intersection, you can go to the main road, which was that paved road
2 that runs between Spin Boldak and Kandahar. If we proceeded right,
3 that wide intersection; if we proceed south, past the airport
4 property, pass a number of houses. There was a radar dish he stated
5 that was possibly destroyed, he was not sure. And we proceeded about
6 20 minutes out of the airport area, residential area, to a vast open
7 area, which was somewhat desert-like, and we would come about the
8 Tarnak Farms compound.

9 Q [MR. MURPHY]: Did you learn about Tarnak Farms as part of
10 your investigation in this case?

11 A [MR. ██████████]: Yes. Yes, I did.

12 Q [MR. MURPHY]: And what did Salim Hamdan say about Tarnak
13 Farms during your interviews with him and also on the 13 March 2002
14 mission?

15 A [MR. ██████████]: He stated it was one of UBL's compounds. And
16 on that particular time in August '01, he had driven in a convoy with
17 UBL to a social gathering at Tarnak Farms. Uthman, his son, had
18 driven UBL in one of the--one of the vehicles. Mr. Hamdan was in
19 another vehicle. They proceeded to this social gathering where there
20 were approximately 150 to 200 guests, most of which were Egyptian
21 Islamic Jihad members and al Qaeda members for this special event.

22 He--when they arrived, they proceeded to have a dinner.
23 And after the dinner, Dr. Ayman Zawahiri, who was the leader of the--

1 leader of the Egyptian Islamic Jihad, and UBL stood up and basically
2 described or stated to the guests that both EIJ and al Qaeda were
3 joined and that it was good for Islam.

4 Q [MR. MURPHY]: All right. Now before you actually took him to
5 Tarnak Farms on this tour and during the course of your interviews
6 with him, did you ask the accused to draw a picture of Tarnak Farms?

7 A [MR. [REDACTED]]: Yes.

8 Q [MR. MURPHY]: And was he able to do it?

9 A [MR. [REDACTED]]: Yes, he was.

10 CTC [MR. MURPHY]: Your Honor, I--mark and ask that we show to
11 the witness Exhibit 88.

12 MJ [CAPT ALLRED]: Please go ahead.

13 CTC [MR. MURPHY]: Ask that we show it to the witness, 88.

14 Q [MR. MURPHY]: Do you recognize that image?

15 A [MR. [REDACTED]]: Yes, I do.

16 Q [MR. MURPHY]: And can you describe how it was prepared? I'll
17 get into the details of it, but can you describe how it was prepared?

18 A [MR. [REDACTED]]: As with the first diagram----

19 Q [MR. MURPHY]: You're able to do that; is that right?

20 A [MR. [REDACTED]]: I'm sorry?

21 Q [MR. MURPHY]: You're able to describe how this was prepared?
22 I'm going to have you describe it in a minute, but----

23 A [MR. [REDACTED]]: Yes.

1 Q [MR. MURPHY]: ----I just want to get it in.

2 CTC [MR. MURPHY]: Your Honor, I would offer it and ask that it
3 be published to the members at this time.

4 MJ [CAPT ALLRED]: Without defense objection, Prosecution
5 Exhibit 88 will be admitted into evidence. You may show it to the
6 members and the gallery.

7 Q [MR. MURPHY]: All right. I stepped on your answer, and I'm
8 sorry; I just wanted to get it before everybody. Can you tell us how
9 this was prepared?

10 A [MR. REDACTED]: Similar to the first map that we asked him to
11 dry--or draw, we provided him a pen and he indicated where the
12 airport area was. And as you can see, he wrote that in English for
13 our reference. It shows the road, the main road to the paved road
14 from the airport, showing Spin Boldak and Kandahar reference points
15 directional.

16 Then he proceeded to draw a line which ran down to this
17 radar dish that he described as--he was not sure if it was destroyed
18 or not. And then further drew a line down to where draws this
19 rectangle and indicated where this little circle is here **[pointing to**
20 **the exhibit]** as the one that I think is a compound entrance for
21 vehicle access. And then drew another road that goes around the
22 compound and further out to an area which I would describe as a
23 desert, to the top of the page here. There's mountains on each side.

1 And he described a canal or riverbed that was adjacent to the
2 compound. And he stated this compound was very old. The compound
3 was already there prior to UBL taking it over. So that line depicts
4 the railroad bed--riverbed that he stated was next to the compound.

5 CTC [MR. MURPHY]: I would ask that we capture the annotations
6 as 88a, and would offer it into evidence at this time without
7 objection.

8 MJ [CAPT ALLRED]: Very well.

9 Q [MR. MURPHY]: And this was drawn before we went to Tarnak
10 Farms; is that correct?

11 A [MR. ██████████]: That's correct.

12 Q [MR. MURPHY]: Does it accurately depict the features at
13 Tarnak Farms?

14 A [MR. ██████████]: Yes, it does.

15 Q [MR. MURPHY]: And the writing that appears on this diagram,
16 can you explain how that's there?

17 A [MR. ██████████]: Well, the writing was based on Mr. Hamdan
18 identifying certain points along this route to Tarnak Farms, which we
19 wrote in English for us to reference when we were going on that
20 mission.

21 [END OF PAGE]

1 Q [MR. MURPHY]: What part of that is Mr. Hamdan drawing
2 himself?

3 A [MR. [REDACTED]]: Just the lines that indicate the route for the
4 road to take to get to Tarnak Farms.

5 Q [MR. MURPHY]: All right.

6 CTC [MR. MURPHY]: Your Honor, we now proceed onto 19
7 photographs. With permission of the court, and I think without
8 objection from the defense, I would offer the next 19 exhibits into
9 evidence, beginning with 89, and would ask that they be offered now
10 so that I can publish them and walk through with the witness.

11 MJ [CAPT ALLRED]: Very well. This--the defense is indicating
12 no objection.

13 CTC [MR. MURPHY]: Right.

14 MJ [CAPT ALLRED]: So prosecution 89 through whatever the right
15 number is, will be admitted. You may show them to the witness and
16 the members.

17 Q [MR. MURPHY]: All right. Let's turn to the first exhibit,
18 89. And--does this represent and the remaining photographs represent
19 photographs that you also took during the second mission?

20 A [MR. [REDACTED]]: Yes, it does.

21 Q [MR. MURPHY]: And are you able to identify them all right
22 now?

23 A [MR. [REDACTED]]: Yes.

1 Q [MR. MURPHY]: And how were they taken?

2 A [MR. ██████]: With the same Sony Mavica camera with the 3 by
3 5 floppy disk to inserted to capture the photographs.

4 Q [MR. MURPHY]: And the accused was also present with you at
5 this part of the mission?

6 A [MR. ██████]: Yes, he was.

7 Q [MR. MURPHY]: All right. Why do we see when we're looking at
8 89?

9 A [MR. ██████]: In reference to the map drawing, this would be
10 the corner where that little circle was drawn on the rectangle for
11 the compound walls. This is a vehicle access gate which allowed
12 vehicles to park in this big open area on the other side of the
13 compound. And, like I said, this compound was--was bombed, as well.
14 And that explains why the gate and the compound wall next to the
15 actual gate for entry is destroyed.

16 Q [MR. MURPHY]: Let's go on to 90. What do we see in 90?

17 A [MR. ██████]: If we're at that corner and proceeding to this
18 riverbed, which is on the opposite side of these telephone poles,
19 there was a little canal there with a reference on the left side of
20 that rectangle that was drawn on the map. We're now driving to the
21 opposite corner, and this depicts a doorway into the compound.

22

23

1 Q [MR. MURPHY]: All right. 91?

2 A [MR. ██████]: This is now proceeding--this would be an
3 easterly direction--along the compound wall. And this portion here,
4 prior to us getting there, it was somewhat exploited by the military
5 forces, and this is actually--the compound wall would be to our left
6 and right of the photograph. A--I believe a bulldozer was brought in
7 and this was--this area here as well as most of the rest of the
8 compound was believed to be mined subsequent to our bombing. And it
9 just depicts an open area within the compound. The compound was
10 enormous. It was the biggest compound that I went to or saw while I
11 was in Kandahar.

12 Q [MR. MURPHY]: Can you give us a feel--we've got a snapshot
13 here. Can you give us a feel just being there the size of it?

14 A [MR. ██████]: Well, there were numerous buildings, almost a
15 hundred buildings in the compound itself. And it just--the compound
16 wall just seemed to go on forever. The compound walls themselves
17 were about 15 to 20 feet high, so there was no way to look on the
18 compound itself unless, obviously, post--post intervention by us as
19 well as the gates or the doorways into the compound.

20 Q [MR. MURPHY]: All right. Let's go into the next image, 92.
21 What do we see there?

22 A [MR. ██████]: Mr. Hamdan identified this area right here as
23 being one of UBL's houses, which is in the top left corner. And this

1 area here is subsequent to our bombing, where the mosque was located.
2 And this is where that meeting took place or the social gathering
3 where there were 150 to 200 guests of UBL.

4 Q [MR. MURPHY]: Let's go to 93.

5 A [MR. ██████]: Just depicts another area as to UBL's house
6 location prior to the bombing, towards the center gate within the
7 compound.

8 Q [MR. MURPHY]: 94?

9 A [MR. ██████]: This is an area that Mr. Hamdan identified as
10 VIP housing. And obviously this is subsequent to intervention on our
11 part.

12 Q [MR. MURPHY]: 95?

13 A [MR. ██████]: A courtyard area to that center gate that is
14 within the compound.

15 Q [MR. MURPHY]: 96?

16 A [MR. ██████]: The structure on the right side of the
17 photograph is--was one of the main UBL houses in the compound. This
18 photograph depicts basically east of that com--or UBL house.

19 Q [MR. MURPHY]: 97?

20 A [MR. ██████]: This is just another angle shot of that UBL
21 house.

22

23

1 Q [MR. MURPHY]: 98?

2 A [MR. ██████]: The area south of UBL's house and it depicts as
3 well a number of structures within the compound, just all--numerous
4 structures.

5 Q [MR. MURPHY]: 99?

6 A [MR. ██████]: This is a center drive that went to various
7 residences on each side of this main road that was in the compound.

8 Q [MR. MURPHY]: 100?

9 A [MR. ██████]: Some of the same photographs showing the
10 driveway that ran within the compound.

11 Q [MR. MURPHY]: 101?

12 A [MR. ██████]: Another photograph as to where the mosque was
13 located.

14 Q [MR. MURPHY]: 102?

15 A [MR. ██████]: A close-up of the debris from the remnants of
16 the mosque.

17 Q [MR. MURPHY]: 103?

18 A [MR. ██████]: This is an area from the mosque debris towards
19 that main UBL house on the compound.

20 Q [MR. MURPHY]: 104?

21 A [MR. ██████]: Another photograph of the area east of UBL's
22 house, main house in the compound.

23

1 Q [MR. MURPHY]: 105?

2 A [MR. ██████]: This is a photograph--maybe I can describe it a
3 little better for you. The concern was as we were advised by U.S.
4 forces that it was believed that the compound was--was mined after--
5 after most of the compound was destroyed, so we were directed on a
6 very narrow path through the compound. So we would try to reach
7 different items that we could reach from the path. And it's prior to
8 this photograph where it was one of the paths that I walked on.
9 After I returned from Afghanistan back home, I had learned two weeks
10 afterwards that one of the U.S. forces was killed on the same path I
11 had walked on. So it lends credibility to the fact that either
12 Taliban or al Qaeda associates were getting in the compound and
13 mining it, I assume believing that we were going to be in there to
14 try to exploit it further.

15 Q [MR. MURPHY]: All right. This is debris that we're looking
16 at----

17 A [MR. ██████]: This is--this is within arm's reach of one of
18 the trails that we walked on within the compound. And this is just
19 showing basically a bank statement, a book, and some additional
20 records, and address book.

21 Q [MR. MURPHY]: 106?

22 A [MR. ██████]: A close-up of that statement book.

23

1 Q [MR. MURPHY]: And we're still on Tarnak Farms?

2 A [MR. ██████]: Correct.

3 Q [MR. MURPHY]: And 107?

4 A [MR. ██████]: And this photograph is a photo of the address
5 book that was just to the left of that checking stub book that we've
6 picked up.

7 CTC [MR. MURPHY]: All right. We can fade to black on the
8 screens.

9 Q [MR. MURPHY]: Do these pictures match up with the features
10 that were described by the accused in his diagram before you even
11 went out there?

12 A [MR. ██████]: Yes.

13 Q [MR. MURPHY]: I want to return now to your interviews with
14 Salim Hamdan and talk to you about a Khost guest house and traveling
15 from Kabul to Khost. That's our topic.

16 During your interviews with Salim Hamdan, did you ask the
17 accused about a specific guest house in the Khost region of
18 Afghanistan?

19 A [MR. ██████]: Yes, we did.

20 Q [MR. MURPHY]: What, if anything, did Salim Hamdan say about
21 that guesthouse?

22 A [MR. ██████]: That it was a UBL guest house.

23

1 Q [MR. MURPHY]: Did he state that he also worked as a driver
2 for UBL at this location?

3 A [MR. ██████]: Yes, he did.

4 Q [MR. MURPHY]: Was Salim Hamdan able to identify how many
5 drivers worked for UBL at this time?

6 A [MR. ██████]: Seven.

7 Q [MR. MURPHY]: Did Salim Hamdan talk to you about driving a
8 caravan road trip in early October 2001 from Kabul to Khost?

9 A [MR. ██████]: Yes, he did.

10 Q [MR. MURPHY]: What type of vehicles did Hamdan say were being
11 driven in the convoy?

12 A [MR. ██████]: He was in a black Hilux. There were a total of
13 four vehicles within the convoy.

14 Q [MR. MURPHY]: What other types of cars were in the caravan or
15 convoy?

16 A [MR. ██████]: There were two Toyota colored white buses as
17 well as two black Hilux pickup trucks.

18 Q [MR. MURPHY]: Were there weapons in the caravan or convoy
19 vehicles?

20 A [MR. ██████]: Yes. There were--Mr. Hamdan said he had
21 several armed guards with him that carried AK-47s, and that each of
22 the buses were in the front and the rear of the convoy, each
23 containing about 10 guards armed with AK-47s and RPGs.

1 Q [MR. MURPHY]: Who of significance traveled in this convoy in
2 early October 2001?

3 A [MR. [REDACTED]]: There was Usama Bin Laden and Dr. Ayman
4 Zawahiri.

5 Q [MR. MURPHY]: Did Salim Hamdan also describe another convoy
6 road trip in mid, as opposed to early, mid October 2001?

7 A [MR. [REDACTED]]: Yes, he did.

8 Q [MR. MURPHY]: Where--where the accused transported UBL at
9 that time; is that right?

10 A [MR. [REDACTED]]: That's correct.

11 Q [MR. MURPHY]: What type of car did Hamdan drive this time?

12 A [MR. [REDACTED]]: He was operating a white Toyota Corolla.

13 Q [MR. MURPHY]: Did Salim Hamdan know where the convoy was
14 heading and who UBL was going to meet during this trip?

15 A [MR. [REDACTED]]: Yes, the convoy was proceeding to Kabul for UBL
16 to meet with Dr. Ayman Zawahiri.

17 Q [MR. MURPHY]: What role, if any, did radios play during this
18 trip?

19 A [MR. [REDACTED]]: Mr. Hamdan stated that the drivers of each of
20 the vehicles in the convoy maintained a portable radio.

21 [END OF PAGE]

1 Q [MR. MURPHY]: And was there a special role for UBL's son
2 Uthman during this trip?

3 A [MR. ██████]: Yes, there was. If the drivers needed to ask
4 UBL a question, they would call UBL's son, Uthman, on the radio, and
5 it was known that if a question was being posed to Uthman, and Uthman
6 would relay that message to UBL, and then UBL would provide an answer
7 and Uthman would respond to the drivers with his answer.

8 Q [MR. MURPHY]: Regarding the accused's convoy road trip with
9 UBL during the mid October 2001 trip with UBL, did Hamdan describe
10 certain safety equipment he observed while carrying out his duties to
11 UBL?

12 A [MR. ██████]: Yes. In the rear of the white Toyota Corolla
13 he had observed a bulletproof vest.

14 Q [MR. MURPHY]: I want to ask you a question about a specific
15 concern that the accused had about UBL that was noted by the accused
16 shortly after 9/11. Can you talk about that?

17 A [MR. ██████]: Sure. While he was at UBL's compound or
18 residence in Kandahar, he had overheard a number of the guards
19 stating that UBL was complaining of pain in the kidney area. He had
20 learned that one of the guards was dispatched to Kandahar, within the
21 city area, to get a doctor, and that doctor soon thereafter returned
22 to the residence. And Mr. Hamdan stated it was an Afghani doctor
23 that came to the residence to treat UBL.

1 Q [MR. MURPHY]: All right. Let's turn now to the topic of
2 Richard Reid. During your interviews, did you show to Salim Hamdan--
3 did you show photographs to Salim Hamdan during the course of your
4 interviews with him?

5 A [MR. ██████████]: Yes, I did.

6 CTC [MR. MURPHY]: Your Honor, I would ask that we show to the
7 witness what is now marked as Exhibit 108.

8 MJ [CAPT ALLRED]: May I see that?

9 CTC [MR. MURPHY]: And we can show it to the Military Judge,
10 first.

11 MJ [CAPT ALLRED]: Okay. Show that to the witness, please.

12 Q [MR. MURPHY]: Do you recognize 108?

13 A [MR. ██████████]: Yes, I do.

14 Q [MR. MURPHY]: Is this the photographic image that you showed
15 to the accused?

16 A [MR. ██████████]: Yes.

17 CTC [MR. MURPHY]: Your Honor, I would offer it at this time.

18 CDC [MR. SWIFT]: No objection.

19 MJ [CAPT ALLRED]: 108 is admitted into evidence.

20 CDC [MR. SWIFT]: There is no objection.

21 MJ [CAPT ALLRED]: Thank you.

22 Q [MR. MURPHY]: Do you recognize this photo?

23 A [MR. ██████████]: Yes, I do.

1 Q [MR. MURPHY]: Who is it?

2 A [MR. [REDACTED]]: That's a photograph of Richard Reid.

3 Q [MR. MURPHY]: Did you show this photo to the accused?

4 MJ [CAPT ALLRED]: Please show this to the members and the
5 gallery.

6 CTC [MR. MURPHY]: Oh, I'm sorry, yes.

7 Q [MR. MURPHY]: Did you show this photo to the accused?

8 A [MR. [REDACTED]]: Yes, I did.

9 Q [MR. MURPHY]: What, if anything, did he say about this photo?

10 A [MR. [REDACTED]]: He stated he recognized Richard Reid from
11 visiting a guest house in Kabul in early November 2001. He had a
12 friend there, a Yemeni friend, named Abu Anas that he would visit on
13 occasion when traveling in Kabul. He would stop by for a couple
14 minutes. And during one of these visits in early November, he
15 observed Richard Reid sitting in, basically the family room or a
16 guest room. He did not hear him talk nor did he speak to him, but he
17 identified him as wearing Afghan clothes.

18 Q [MR. MURPHY]: All right. I want to turn to now regarding
19 three individuals; Dr. Ayman Zawahiri, Saif Al-Adel, and Abu Hafs
20 Al-Masri. During the course of your interviews with the accused, did
21 you talk to him about these three specific individuals?

22 A [MR. [REDACTED]]: Yes.

23

1 Q [MR. MURPHY]: What did the accused say about these people?

2 A [MR. [REDACTED]]: In general terms, he described Saif Al-Adel as
3 head of security, also someone that he would be advised of for convoy
4 movements from UBL's compounds. He explained that Dr. Ayman Zawahiri
5 was head of the Egyptian Islamic Jihad, and that he had partnered up
6 with UBL as--from that dinner that was at Tarnak Farms that he was
7 present for in early August '01. And then knowing UBL as head of the
8 al Qaeda.

9 Q [MR. MURPHY]: All right. And as a FBI agent on this case,
10 have you learned about these three subjects?

11 A [MR. [REDACTED]]: Yes.

12 Q [MR. MURPHY]: And what's your understanding of them
13 generally?

14 A [MR. [REDACTED]]: Well, that UBL is in charge of al Qaeda,
15 Dr. Ayman Zawahiri is--basically directly under him, and that Saif
16 Al-Adel was in charge of security for al Qaeda as well as the main
17 security person for UBL.

18 Q [MR. MURPHY]: At any time during your interviews with the
19 accused did he ever tell you that he lied to you during these
20 interviews or during the mission, that he made up information just to
21 please you or that he was afraid of you in any way?

22 A [MR. [REDACTED]]: No.

23

1 Q [MR. MURPHY]: Did he retract any of the information he gave
2 to you?

3 A [MR. [REDACTED]]: No.

4 Q [MR. MURPHY]: Did the accused ever claim that he was ever
5 abused, tortured or mistreated by anyone to provide information or
6 for any reason?

7 A [MR. [REDACTED]]: No.

8 Q [MR. MURPHY]: Did you observe or even learn about any abuse
9 or mistreatment of any detainee at the United States Army temporary
10 detention facility at the Kandahar International Airport?

11 A [MR. [REDACTED]]: No.

12 Q [MR. MURPHY]: If the accused had made such a report to you or
13 if you had learned about such a report of abuse or mistreatment, what
14 would you have done with that information?

15 A [MR. [REDACTED]]: I had befriended the Captain in charge of the
16 MPs for the facility, until present today, actually. I would have
17 gone to him and advised him of the complaint as well as document it
18 within our records.

19 Q [MR. MURPHY]: Did it ever become necessary to do that?

20 A [MR. [REDACTED]]: No.

21 CTC [MR. MURPHY]: Your Honor, if I may have a moment.

22 Your Honor, we tender the witness.

23 MJ [CAPT ALLRED]: Very good.

1 **CROSS-EXAMINATION**

2 **Questions by the civilian defense counsel:**

3 Q [MR. SWIFT]: Good morning Agent [REDACTED]. I'm Charlie Swift.
4 I represent Mr. Hamdan in this matter.

5 A [MR. [REDACTED]]: Good morning.

6 Q [MR. SWIFT]: Actually, it's Salim Hamdan. It gets
7 mispronounced a lot, but it's Salim Hamdan.

8 If I could have Defendant's Exhibit Charlie, please. I
9 believe this has been previously been introduced into evidence. I'd
10 just like to go ahead and publish it to both the witness and the
11 members.

12 MJ [CAPT ALLRED]: What's the number?

13 CDC [MR. SWIFT]: I believe it's Charlie. It's C.

14 MJ [CAPT ALLRED]: Well, isn't this the one you're calling
15 number--Prosecution Exhibit 22?

16 TC [LCDR STONE]: No, sir. I think their referring to Defense
17 Exhibit Charlie, which was a photograph of the individuals.

18 MJ [CAPT ALLRED]: Very well. You may publish that.

19 CDC [MR. SWIFT]: If we could go ahead and publish that to the
20 members and to the witness.

21 MJ [CAPT ALLRED]: Can you see the photograph, Special Agent
22 [REDACTED]?

23 WIT [MR. [REDACTED]]: No, sir.

1 MJ [CAPT ALLRED]: Okay. Go ahead. If you can try to get it up
2 on this main screen. There you go.

3 Q [MR. SWIFT]: Do you recognize this photo?

4 A [MR. ██████]: Yes, I do.

5 Q [MR. SWIFT]: Are you in this photo?

6 A [MR. ██████]: Yes, I am.

7 Q [MR. SWIFT]: Can you identify which one in the photo you are?

8 A [MR. ██████]: Second from the left.

9 Q [MR. SWIFT]: Can you put a mark there?

10 A [MR. ██████]: Sure.

11 Q [MR. SWIFT]: Who is standing immediately to your right as we
12 look at the photo?

13 A [MR. ██████]: Mr. Hamdan.

14 Q [MR. SWIFT]: Okay. When was this photo taken?

15 A [MR. ██████]: It was taken during the first mission.

16 Q [MR. SWIFT]: Mr. Hamdan's face is covered.

17 A [MR. ██████]: Yes, it is.

18 Q [MR. SWIFT]: Could he see out of that?

19 A [MR. ██████]: I don't believe so.

20 Q [MR. SWIFT]: Was he blindfolded throughout the time that you
21 took him out of the camp?

22 A [MR. ██████]: No.

23

1 Q [MR. SWIFT]: Was he able to see out and direct you along the
2 roads, et cetera?

3 A [MR. [REDACTED]]: Yes, he was.

4 Q [MR. SWIFT]: Did his face remain covered?

5 A [MR. [REDACTED]]: Not while he was on the mission.

6 Q [MR. SWIFT]: Not while he's on the mission. Were other
7 Afghanis able to see him?

8 A [MR. [REDACTED]]: Possibly from the roads. I don't know. Is it
9 possible? Yes.

10 Q [MR. SWIFT]: Possible. Was it a concern whether people could
11 see him with you?

12 A [MR. [REDACTED]]: Yes.

13 Q [MR. SWIFT]: Why was it a concern?

14 A [MR. [REDACTED]]: For his identity, for one; and then our safety,
15 as well.

16 Q [MR. SWIFT]: If his identity became known that he was
17 cooperating with you, could that place him in danger?

18 A [MR. [REDACTED]]: Potentially.

19 Q [MR. SWIFT]: And so you took--you took efforts to make sure
20 that this wasn't known; correct?

21 A [MR. [REDACTED]]: Correct.

22

23

1 Q [MR. SWIFT]: And that would be standard with a cooperating
2 witness who is--could become in jeopardy for their cooperation; isn't
3 that right?

4 A [MR. [REDACTED]]: We try to minimize identification.

5 Q [MR. SWIFT]: Now, when you took him out on these two trips,
6 did anything that he had told you beforehand ever not check out?

7 A [MR. [REDACTED]]: Not that I could recollect right now, no.

8 Q [MR. SWIFT]: So everything he told you was dead on the money?

9 A [MR. [REDACTED]]: Yes.

10 Q [MR. SWIFT]: You weren't able to then ever exhume the grave
11 of Abu Hafs, were you?

12 A [MR. [REDACTED]]: No.

13 Q [MR. SWIFT]: But it was later confirmed beyond any doubt that
14 Abu Hafs was killed?

15 A [MR. [REDACTED]]: Well, as I stated before, I had contacted our
16 headquarters when we got back and asked them if they could, (a) check
17 in to confirm if he was already dead and/or provide us permission to
18 link up with other U.S. forces to go and try to extract DNA or try to
19 identify him further.

20 Q [MR. SWIFT]: Did they do either?

21 A [MR. [REDACTED]]: I was advised that he had already passed.

22

23

1 Q [MR. SWIFT]: Did they--they had confirmation of his death?

2 A [MR. ██████]: I interpreted that from the conversation I had
3 with the person at headquarters. Obviously, now I knew based on the
4 investigation that he had been killed prior to us going on this
5 mission, but at the time I did not know. And my impression from my
6 phone call was that do not attempt to go back out.

7 Q [MR. SWIFT]: Not to--not to attempt to exhume him, et cetera?

8 A [MR. ██████]: Correct.

9 Q [MR. SWIFT]: Well, Mr. Hamdan was one of the sources
10 confirming that Abu Hafs was dead, the second in command of al Qaeda?

11 A [MR. ██████]: He provided information to say that he was
12 dead, yes.

13 Q [MR. SWIFT]: Eyewitness testimony that he was dead?

14 A [MR. ██████]: Yes.

15 Q [MR. SWIFT]: All right. That he had in fact helped bury him?

16 A [MR. ██████]: Correct.

17 Q [MR. SWIFT]: Now, also I'd like to go toward the trip to
18 Tarnak Farms and this get-together in--I guess it was the summer of
19 2001?

20 A [MR. ██████]: Correct.

21 Q [MR. SWIFT]: And he told you about that voluntarily?

22 A [MR. ██████]: Yes, he did.

23

1 Q [MR. SWIFT]: And was that in response to open-ended question
2 like were there any significant events you drove Usama Bin Laden to,
3 a question like that?

4 A [MR. ██████████]: I think we had asked him--I'm not sure exactly,
5 but I believe the answer was in reference to a question asking what
6 events occurred at Tarnak Farms to help us understand Tarnak Farms,
7 because I had not heard of the facility or Tarnak Farms before I
8 deployed to Kandahar.

9 Q [MR. SWIFT]: Okay. So what events occurred at Tarnak Farms--
10 and he told you about this major get-together of Ayman al-Zawahiri--
11 and mine is probably worse than most on these pronunciations--and
12 Usama Bin Laden, where they announced the meeting of Islamic Jihad
13 and al Qaeda, the merger of those two organizations?

14 A [MR. ██████████]: I guess I'm not sure if that was the first
15 announcement of the merger or it was just a re-announcement just
16 confirming their merger at a previous occasion.

17 Q [MR. SWIFT]: Have you seen the Al Fitr video? Do you know
18 what I'm referring to?

19 A [MR. ██████████]: No.

20 Q [MR. SWIFT]: You didn't show him any pictures of him at that--
21 -at Tarnak Farms, did you?

22 A [MR. ██████████]: I did not have any to show him.

23

1 Q [MR. SWIFT]: So you didn't confront him and say isn't it true
2 that you were with Usama Bin Laden at Tarnak Farms?

3 A [MR. ██████]: I didn't have to. He advised that he was
4 there.

5 Q [MR. SWIFT]: And so Mr. Hamdan just told you about this big
6 get-together picnic and speech by Ayman Zawahiri and Usama Bin Laden;
7 isn't that correct?

8 A [MR. ██████]: I think he described it more as like a formal
9 dinner than a picnic, but yes.

10 Q [MR. SWIFT]: And he told you that he drove Usama Bin Laden to
11 it?

12 A [MR. ██████]: Not on that occasion.

13 Q [MR. SWIFT]: Oh, that's right. It was--his son Uthman drove
14 him but Usama--he drove another car on that occasion?

15 A [MR. ██████]: Correct.

16 Q [MR. SWIFT]: Admitted that he was there?

17 A [MR. ██████]: Correct.

18 Q [MR. SWIFT]: Told you throughout that he was Usama Bin
19 Laden's driver?

20 A [MR. ██████]: One, one of many drivers.

21 Q [MR. SWIFT]: One of seven?

22 A [MR. ██████]: Correct.

23

1 Q [MR. SWIFT]: Now, you didn't read him his rights; correct?

2 A [MR. [REDACTED]]: Correct.

3 Q [MR. SWIFT]: And there's lots been made of rights, yes or no,
4 but, quite frankly, I believe when we last talked, you didn't
5 consider him a suspect, so the idea of reading rights wouldn't come
6 up in the first place?

7 A [MR. [REDACTED]]: Our policy at the time was not to read Miranda
8 warnings.

9 Q [MR. SWIFT]: Even if you--the policy wasn't in place, was he
10 a suspect?

11 A [MR. [REDACTED]]: I wouldn't consider him--in the military's
12 perspective, the whole mission was intelligence gathering, so that
13 was our purpose there.

14 Q [MR. SWIFT]: Well----

15 A [MR. [REDACTED]]: To collect information which was deemed
16 intelligence.

17 Q [MR. SWIFT]: From your perspective--I understand the
18 military's perspective. I'm not arguing with you about whether you
19 should or shouldn't have. I'm asking yourself, in your perspective,
20 as an agent on the scene, you've been told he's Usama Bin Laden's
21 driver, did you consider him a suspect in any crime?

22 A [MR. [REDACTED]]: If he was a FBI suspect----
23

1 Q [MR. SWIFT]: Yeah.

2 A [MR. ██████]: And in a different location, possibly, yes.

3 Q [MR. SWIFT]: Possibly? Didn't you the last time we talked

4 say, no, I really didn't think of him as a suspect; I thought of him

5 as a source?

6 A [MR. ██████]: A source could be a suspect as well.

7 Q [MR. SWIFT]: Talk to the prosecutor since we--you last

8 testified?

9 A [MR. ██████]: No, I have not.

10 Q [MR. SWIFT]: Can you identify in the photo that's up anyone

11 else in the picture?

12 A [MR. ██████]: The individual to my left is a----

13 TC [LCDR STONE]: Object--if we could have asked a little

14 differently with specific reference to the person Commander Swift is

15 interested in as opposed to a broad-based question. We have----

16 CDC [MR. SWIFT]: Well----

17 TC [LCDR STONE]: We have a 505 issue that may pop up, sir, and

18 that's why I want to----

19 Q [MR. SWIFT]: Is ██████ in the picture?

20 A [MR. ██████]: Yes, he is.

21 Q [MR. SWIFT]: Can you identify him?

22 A [MR. ██████]: He's to my left.

23

1 Q [MR. SWIFT]: Why was he on the mission?

2 A [MR. ██████]: Excuse me?

3 Q [MR. SWIFT]: Why was he on this mission?

4 A [MR. ██████]: Normally the CID agents, who were very
5 accommodating to us both work-wise and personally for lodging, and
6 since I do not have a prior military background, they assisted with
7 identifying military jargon I needed to know as well as showing me
8 around Kandahar, as well.

9 So ██████ and a number of other CID agents would be
10 present with us for our interviews, as well. So very accommodating,
11 on this mission, Mr. ██████ came with us.

12 Q [MR. SWIFT]: Now, is Mr. ██████ a member of the military
13 forces?

14 A [MR. ██████]: Yes.

15 Q [MR. SWIFT]: Is he wearing a uniform?

16 A [MR. ██████]: No.

17 Q [MR. SWIFT]: Now, when you showed Mr. Hamdan Richard Reid's
18 photo, did Mr. Hamdan say that's Richard Reid?

19 A [MR. ██████]: He identified him as Richard Reid without me
20 asking him, yes.

21 Q [MR. SWIFT]: He used his name?

22 A [MR. ██████]: I believe so.

23

1 Q [MR. SWIFT]: So he knew who he was? Did you ask him how he
2 knew his name?

3 A [MR. ██████]: No, I don't believe so.

4 Q [MR. SWIFT]: Why not?

5 A [MR. ██████]: I didn't ask him.

6 Q [MR. SWIFT]: Did he indicate that he had any knowledge other
7 than being able to identify him?

8 A [MR. ██████]: No.

9 Q [MR. SWIFT]: Did you ask him if he knew about Richard Reid's
10 airline plot?

11 A [MR. ██████]: I don't believe so.

12 Q [MR. SWIFT]: Was the FBI currently investigating Richard Reid
13 at that time for a terrorist act?

14 A [MR. ██████]: Yes, we were.

15 Q [MR. SWIFT]: And all knowledge about the planning of that act
16 would be relevant, wouldn't it?

17 A [MR. ██████]: Yes, it would be.

18 Q [MR. SWIFT]: And Mr. Hamdan is someone who could identify him
19 to know that, wouldn't he?

20 A [MR. ██████]: I don't know.

21 Q [MR. SWIFT]: Well, then, again, he was just a driver; right?

22 CDC [MR. SWIFT]: Thank you. No further questions.

23 MJ [CAPT ALLRED]: Very good. Thank you.

1 CTC [MR. MURPHY]: Just a little follow-up, Your Honor.

2 MJ [CAPT ALLRED]: Um-hum.

3 **REDIRECT EXAMINATION**

4 **Questions by the civilian trial counsel:**

5 Q [MR. MURPHY]: On the cooperation issue that the defense
6 touches on, you talked to Salim Hamdan at what timeframe?

7 A [MR. [REDACTED]]: Between February and March of 2002.

8 Q [MR. MURPHY]: Would it have been more important to the United
9 States and its intelligence agencies and the military to have gotten
10 the information you heard back in November of 2001?

11 A [MR. [REDACTED]]: Yes.

12 Q [MR. MURPHY]: Why is that?

13 A [MR. [REDACTED]]: Just for further specification in terms of our
14 questioning and additional assistance in identifying subjects of
15 interest and of his locations, as well.

16 Q [MR. MURPHY]: When you took us through the tour of Tarnak
17 Farms and the guest houses, were they abandoned at that time?

18 A [MR. [REDACTED]]: As far as--we did not enter the locations other
19 than Tarnak Farms, but the--there were some Afghan military personnel
20 that maintained the quasi security of the compound.

21 **[END OF PAGE]**

22

23

1 Q [MR. MURPHY]: To your knowledge there was no active al Qaeda
2 at any of those sites when Hamdan--Salim Hamdan actually took you
3 there?

4 A [MR. ██████]: Not that I'm aware of.

5 Q [MR. MURPHY]: Now, are you generally aware that the U.S.
6 government and the military specifically were aware of all of these
7 sites at the time you had your mission with Salim Hamdan there; is
8 that right?

9 A [MR. ██████]: Well, subsequent to the missions, yes.

10 Q [MR. MURPHY]: Okay. The individual that you took, ██████
11 ██████, he was not engaged in combat at the time of this tour; is
12 that correct?

13 A [MR. ██████]: I don't believe so.

14 CTC [MR. MURPHY]: I have nothing further, Your Honor.

15 MJ [CAPT ALLRED]: Very good. Mr. Swift?

16 CDC [MR. SWIFT]: No follow up.

17 MJ [CAPT ALLRED]: May we excuse this witness to return?

18 CDC [MR. SWIFT]: Unless the members have questions.

19 MJ [CAPT ALLRED]: Oh, I beg your pardon me. I keep forgetting
20 to ask the members. Do you have any questions for this witness?

21 MEMBERS: **[No response.]**

22 MJ [CAPT ALLRED]: Any questions for the last witness?

23 MEMBERS: **[No response.]**

1 MJ [CAPT ALLRED]: How about the first witness that testified?

2 We can call them all back, if necessary.

3 Okay. Special Agent [REDACTED], you're excused, then, as a
4 witness. You may return to your duties in the United States.

5 WIT [MR. [REDACTED]]: Thank you.

6 MJ [CAPT ALLRED]: Thank you.

7 **[The witness was excused and withdrew from the courtroom.]**

8 MJ [CAPT ALLRED]: Okay. What do you have next for us?

9 CTC [MR. MURPHY]: Your Honor, I'm told by my technician that we
10 actually have a little technical issue that we need to address, so--

11 MJ [CAPT ALLRED]: Okay. I was thinking; has it been an hour
12 since we came back on the record? Why don't we take a brief recess,
13 then, and come back--we'll have another half an hour or so in court
14 before we break for lunch. We'll wait while all members withdraw
15 from the courtroom and we'll recess, until 12 o'clock.

16 **[The military commission recessed at 1149, 24 July 2008.]**

17 **[The military commission was called to order at 1207, 24 July 2008.]**

18 MJ [CAPT ALLRED]: The Court's called to order. Let the record
19 reflect that all parties are present again in the courtroom.

20 Mr. Murphy?

21 CTC [MR. MURPHY]: Yes, Your Honor. The government would call
22 Special Agent [REDACTED].
23

1 MJ [CAPT ALLRED]: Bailiff, call--matter of fact, I think Senior
2 Chief's got him.

3 **[The witness entered the courtroom.]**

4 CTC [MR. MURPHY]: Special Agent [REDACTED].

5 If you could approach the witness area, face me, and raise
6 your right hand to be sworn.

7 [REDACTED], Civilian, was called as a witness for the
8 prosecution, was sworn, and testified as follows:

9 CTC [MR. MURPHY]: Please be seated **[did as directed]**.

10 **DIRECT EXAMINATION**

11 **Questions by the civilian trial counsel:**

12 Q [MR. MURPHY]: Could you spell your full--state your full name
13 and spell your last name.

14 A [MR. [REDACTED]]: [REDACTED]

15 Q [MR. MURPHY]: All right. How are you currently employed?

16 A [MR. [REDACTED]]: I'm currently a Special Agent within the
17 Naval Criminal Investigative Service.

18 Q [MR. MURPHY]: Prior to your current employment, what did you
19 do?

20 A [MR. [REDACTED]]: I was an intelligence analyst with the
21 National Drug Intelligence Center in Johnstown, PA.

22 Q [MR. MURPHY]: And how long were you on active duty?

23 A [MR. [REDACTED]]: Well, that wasn't active duty, sir.

1 MJ [CAPT ALLRED]: did you ask him, "How long were you on active
2 duty"?

3 Q [MR. MURPHY]: I'm sorry. I apologize. How long were you----

4 MJ [CAPT ALLRED]: Confused you, if nothing else.

5 Q [MR. MURPHY]: I apologize. Yes, I apologize. How long were
6 you there?

7 A [MR. [REDACTED]]: I was with NDIC for a little over eight
8 years.

9 Q [MR. MURPHY]: Please describe for us your formal education
10 and your law enforcement training.

11 A [MR. [REDACTED]]: I have a Bachelor of Science degree in Human
12 Resources and Management, and I attended a 16-week course at the
13 Federal Law Enforcement Training Center.

14 Q [MR. MURPHY]: All right. You do have active duty service?

15 A [MR. [REDACTED]]: Yes, I do.

16 Q [MR. MURPHY]: Can you tell us about that?

17 A [MR. [REDACTED]]: Yes. I was in the Air Force for a little--
18 almost seven and a half years as a Spanish Cryptological and
19 Linguistic Specialist.

20 Q [MR. MURPHY]: All right. NCIS assign you to interview Salim
21 Hamdan?

22 A [MR. [REDACTED]]: Yes, they did.

23

1 Q [MR. MURPHY]: I would ask for you to look around the
2 courtroom today, see if you can recognize; and if you can, point to
3 him and identify an article of clothing he is wearing?

4 A [MR. [REDACTED]]: That's him right there **[pointing to the**
5 **accused]** and he's wearing the tan sports coat.

6 CTC [MR. MURPHY]: Your Honor, may the record reflect that the
7 witness has properly identified the accused in this case?

8 MJ [CAPT ALLRED]: It may.

9 Q [MR. MURPHY]: During what time period did you interview Salim
10 Hamdan?

11 A [MR. [REDACTED]]: It was May of 2002.

12 Q [MR. MURPHY]: And where did you interview him?

13 A [MR. [REDACTED]]: Here in Guantanamo Bay.

14 Q [MR. MURPHY]: How many times did you---

15 A [MR. [REDACTED]]: Approximately three times.

16 Q [MR. MURPHY]: Could you describe for us in some detail the
17 conditions of the interviews, specifically the rooms where they took
18 place.

19 A [MR. [REDACTED]]: The room was approximately 10 by 12. It had
20 a table, a long folding table. And in the room on one wall was a
21 one-way mirror, there were approximately four chairs, on one side of
22 the table, one chair on the other side of the table where Hamdan
23 would sit.

1 Q [MR. MURPHY]: And were there other people in the rooms with
2 you during the interviews?

3 A [MR. ██████████]: Yes, there were.

4 Q [MR. MURPHY]: Who were they?

5 A [MR. ██████████]: My partner who was assigned to me once I got
6 to Guantanamo Bay, our translator, and a member of MI, Army MI.

7 Q [MR. MURPHY]: In what language were the interviews conducted?

8 A [MR. ██████████]: Arabic.

9 Q [MR. MURPHY]: And you don't speak Arabic; is that right?

10 A [MR. ██████████]: No, sir.

11 Q [MR. MURPHY]: Could you describe how you worked with the
12 interpreter during the interviews.

13 A [MR. ██████████]: Yeah. Prior to going into the interview, we
14 would sit down with the translator, give him an understanding of some
15 of the questions that we were going to ask. We routinely went in
16 there specifically with Hamdan, since he first--we were the first--he
17 was the--we were the first ones that he spoke to when he got here is
18 that we only wanted to speak to him on a couple of issues each time
19 we talked to him.

20 Q [MR. MURPHY]: Okay. I'd like to ask you to just slow----

21 A [MR. ██████████]: Sure.

22

23

1 Q [MR. MURPHY]: ----for our translators.

2 A [MR. [REDACTED]]: So we would tell the translator what those
3 issues were going to be and tell him how we planned approaching the
4 interview. We also made sure that he was aware, when he asked a
5 question to inform Hamdan when he responded to a question to respond
6 to us since we were the ones conducting the interview.

7 Q [MR. MURPHY]: What were the seating arrangements in the room
8 the interview was?

9 A [MR. [REDACTED]]: It would be--I would be on one side and the
10 translator would be in the middle, and my partner would be on the
11 other side of the translator, with Hamdan on the other side of the
12 table.

13 Q [MR. MURPHY]: Was the accused restrained during these
14 interviews?

15 A [MR. [REDACTED]]: He was restrained from the waist and the
16 feet. His hands, usually when he was brought into room, we would ask
17 the guard to unshackle his wrist so he would have free movement with
18 his hands.

19 Q [MR. MURPHY]: How close were you and the other agents to
20 Mr. Hamdan during these interviews?

21 A [MR. [REDACTED]]: Approximately two to three feet.

22

23

1 Q [MR. MURPHY]: How would you describe the tone of the
2 interviews with Salim Hamdan?

3 A [MR. ██████████]: Cordial.

4 Q [MR. MURPHY]: Did you or anyone else ever yell at Salim
5 Hamdan during your interviews or act in any manner that you would
6 consider to be threatening?

7 A [MR. ██████████]: No, we did not.

8 Q [MR. MURPHY]: Did you provide any rights advisements to
9 Mr. Hamdan, such as Article 31 warnings under the Uniform Code of
10 Military Justice or Miranda-type warnings?

11 A [MR. ██████████]: No, we did not.

12 Q [MR. MURPHY]: Why was that?

13 A [MR. ██████████]: When we arrived here at GTMO, there was a
14 standing policy that we would not be advising rights to the
15 detainees.

16 Q [MR. MURPHY]: And did you prepare reports, FBI reports or
17 CITF Form 40 reports that generally summarized your interviews?

18 A [MR. ██████████]: Yes, we did.

19 Q [MR. MURPHY]: And how did you prepare those reports?

20 A [MR. ██████████]: Routinely, prior to going into the interview,
21 we would decide on who would be conducting the interview, and then
22 who would be taking notes. So the notes would be taken from the
23 interview room and back to where we were working at that time, and

1 they would be transposed onto the 302, to an official document, the
2 interview that took place.

3 Q [MR. MURPHY]: All right. Let's turn to the substance of your
4 interviews. First I'm going to ask you questions about your
5 interviews related to training camps. Did you ask Mr. Hamdan about
6 the al Qaeda training camp, al Farouq?

7 A [MR. [REDACTED]]: Yes, we did.

8 Q [MR. MURPHY]: What did he say about that?

9 A [MR. [REDACTED]]: Hamdan informed us that he had attended al
10 Farouq approximately two, two and a half years ago. At that time,
11 that would have made it about 19--mid 1999. He said that he attended
12 for 30 to 40 days that first time.

13 Q [MR. MURPHY]: All right. And did he say--did he say what he
14 did whether he was at al Farouq?

15 A [MR. [REDACTED]]: He didn't go into specifics about what his
16 activities were at the camp. He said that he just attended the camp.

17 Q [MR. MURPHY]: Did he talk to you about anyone that helped him
18 get to Afghanistan for this training?

19 A [MR. [REDACTED]]: Yes, he did.

20 Q [MR. MURPHY]: And who helped him do that?

21 A [MR. [REDACTED]]: He informed us that an individual named Ali
22 Al-Yafi had helped him get to Afghanistan.

23

1 Q [MR. MURPHY]: Was he able to identify a person in charge of
2 al Farouq?

3 A [MR. [REDACTED]]: Yes, he did.

4 Q [MR. MURPHY]: What did he say?

5 A [MR. [REDACTED]]: He indicated to us that the individual that
6 at that time who was in charge was named Hamza.

7 Q [MR. MURPHY]: What, if anything, did Salim Hamdan tell you
8 about the type of training at al Farouq?

9 A [MR. [REDACTED]]: He--he indicated there was training in--in
10 rockets, explosion, explosives, artillery, heavy artillery, mines,
11 being done at al Farouq.

12 Q [MR. MURPHY]: Did he participate in all of this training
13 himself?

14 A [MR. [REDACTED]]: No, he did not.

15 Q [MR. MURPHY]: What did he say was the training he received?

16 A [MR. [REDACTED]]: Again, he didn't go into specifics about what
17 type of specific training he conducted. He told us about the
18 training that was being conducted in another part of the camp.

19 Q [MR. MURPHY]: All right. Let's turn to the topic of
20 operations. What, if anything, did Salim Hamdan tell you about any
21 operations planned by UBL prior to September 11th, 2001?

22 A [MR. [REDACTED]]: He related to us that during a car ride in
23 the Kabul area, UBL, Usama Bin Laden, at that time had talked about

1 an operation that was going to be conducted. He didn't go into
2 specifics about the operation, just the fact that an operation was
3 planned.

4 Q [MR. MURPHY]: Did you come away with an understanding of what
5 he meant by the term operation?

6 A [MR. [REDACTED]]: Not specifically. He--again, he didn't go
7 into specifics, just the fact that an operation was planned.

8 Q [MR. MURPHY]: Where did this conversation take place?

9 A [MR. [REDACTED]]: According to Hamdan, it was in a vehicle he
10 was driving with UBL in it, in the Kabul area.

11 Q [MR. MURPHY]: And in addition to himself and UBL, did he talk
12 about anyone else in the vehicle at that time?

13 A [MR. [REDACTED]]: Yes, he did.

14 Q [MR. MURPHY]: Who did he say?

15 A [MR. [REDACTED]]: He indicated that Usama Bin Laden's son,
16 Uthman, was in the car with him at the time.

17 Q [MR. MURPHY]: Did Salim Hamdan also talk about any other UBL
18 bodyguards. Did he talk to any other UBL bodyguards about a pending
19 operation before September 11th, 2001?

20 A [MR. [REDACTED]]: Yes, he did.

21 Q [MR. MURPHY]: What did he say about those conversations?

22 A [MR. [REDACTED]]: He--he told us that while at one of the safe
23 houses in Kabul, some of the guards, he had asked some of the guards

1 if they had heard or heard anything at all about an operation that
2 was going to be taking place. They had informed him that, yeah, they
3 had overheard UBL, Usama Bin Laden, talking about an operation. They
4 knew that something was going to happen.

5 Q [MR. MURPHY]: Was Salim Hamdan able to identify by name UBL's
6 guards?

7 A [MR. [REDACTED]]: Yes, he was.

8 Q [MR. MURPHY]: What did he tell you?

9 A [MR. [REDACTED]]: He--he informed us that an individual named
10 Abdul Rahman was there, Saqr, Hamza, Abu Maryam, Uthman, Asem, and
11 Omar were there.

12 He also provided us some information indicating that Abu
13 Khadiia was there also. He said that a few of the individuals were
14 bodyguard--not only bodyguard but also drivers. He indicated that
15 Uthman--the driver, his son. He indicated that Abu Maryam was the
16 lead driver. He indicated that Hamza was a driver, and he also
17 indicated that Abdul Rahman was a driver, also.

18 Q [MR. MURPHY]: What, if anything, did Mr. Hamdan tell you
19 about visiting UBL at his house and being around UBL's family?

20 A [MR. [REDACTED]]: He--he related that I believe at a time that
21 he found out about--hearing about the operation, he was going to go
22 get UBL, pick UBL up and his--and his kids. This is at the time that
23 he heard from the guards also about the operation.

1 He also relayed that at that time--again, his kids were at
2 the camp and he was supposed to take his kids and UBL back from where
3 they were located in Kandahar to Kabul.

4 Q [MR. MURPHY]: One day after September 11th, 2001, did Hamdan
5 and UBL have another conversation?

6 A [MR. ██████████]: Yes, they did.

7 Q [MR. MURPHY]: What was said during that conversation?

8 A [MR. ██████████]: Hamdan indicated to us that he had asked
9 Usama Bin Laden at dinner, whether the operation that had taken
10 place, 9/11, had taken place, was that the operation that he had
11 talked about previously. According to Hamdan, he was told yes, it
12 was, from UBL.

13 Q [MR. MURPHY]: Who else, if anyone, was with UBL and Hamdan
14 during this conversation?

15 A [MR. ██████████]: According to Hamdan, Dr. Al-Zawahiri was
16 there--present at the time.

17 Q [MR. MURPHY]: Did Salim Hamdan tell you how many people or
18 how people around Usama Bin Laden reacted to the events of September
19 11th?

20 A [MR. ██████████]: Yes.

21 Q [MR. MURPHY]: What did he say?

22 A [MR. ██████████]: He indicated that Usama Bin Laden was pleased
23 with it--and everybody that was present at that time seem to be happy

1 on how things had taken place.

2 Q [MR. MURPHY]: All right. Let's talk about an Al Jazeera
3 video. Did Salim Hamdan talk to you about a video that was made
4 outside of Kabul after September 11th, 2001?

5 A [MR. [REDACTED]]: Yes, he did.

6 Q [MR. MURPHY]: What did he say?

7 A [MR. [REDACTED]]: He said shortly after 9/11 had taken place,
8 he had taken UBL and al-Zawahiri to a camp outside of Kabul. He said
9 Loghar. I believe that's what he told us, Camp Loghar. He said
10 where Usama Bin Laden had made a video talking about Jews, Americans,
11 and Jihad.

12 Q [MR. MURPHY]: Who was present for the making of this video?

13 A [MR. [REDACTED]]: According to Hamdan, he indicated that
14 al-Zawahiri was present at the time.

15 MJ [CAPT ALLRED]: May I interrupt you. They're having a
16 problem. Is it too loud? Slow down?

17 DEF INT [REDACTED]: The translator does not seem to be using
18 the light, rather she's telling us here, slow down.

19 MJ [CAPT ALLRED]: Okay. Please speak more slowly.

20 Q [MR. MURPHY]: Did Salim Hamdan identify any organization that
21 made this video that we've been discussing?

22 A [MR. [REDACTED]]: Yes, he did.

23

1 Q [MR. MURPHY]: And what did he say?

2 A [MR. [REDACTED]]: He informed us that Al Jazeera had made the
3 video for UBL.

4 CTC [MR. MURPHY]: All right. Your Honor, we now turn to the
5 classified portion of the exhibits. As we've done previously, we
6 have shown them only to the Military Judge, the witness when they're
7 admitted. We then ask them to be published but only shown on the
8 members' monitor.

9 MJ [CAPT ALLRED]: Okay. Proceed with your exhibits.

10 CTC [MR. MURPHY]: There's a series of five, a total of five
11 slides that I've asked to be shown to the Military Judge at this
12 time.

13 And I would also note for the record that a hard copy of
14 these slides have been provided to the defense.

15 MJ [CAPT ALLRED]: Very good. Who's--okay, I see this page.

16 CTC [MR. MURPHY]: Oh, turn off the monitors, please.

17 MJ [CAPT ALLRED]: **[Examining the exhibits]** next page. Okay.
18 I've seen these before. You can go ahead and show them to the
19 witness.

20 CTC [MR. MURPHY]: All right. Your Honor, I would offer them
21 into evidence at this time.

22 CDC [MR. SCHNEIDER]: No objection at this time or any time.

23 MJ [CAPT ALLRED]: All right.

1 CTC [MR. MURPHY]: And have them marked as the next exhibit
2 number in order, and, I'm sorry, I've lost our next number. 109.
3 And ask that they be admitted globally as a five-sheet exhibit marked
4 as 109.

5 MJ [CAPT ALLRED]: Okay.

6 CTC [MR. MURPHY]: All right.

7 MJ [CAPT ALLRED]: Are all the monitor at the defense and trial
8 tables have been shut off?

9 TC [LCDR STONE]: Yes, sir.

10 DC [LCDR MIZER]: Yes, Your Honor.

11 MJ [CAPT ALLRED]: Okay, you may show them to the witness.

12 Q [MR. MURPHY]: Agent [REDACTED], did you show Salim Hamdan a
13 series of photographs that are now depicted on five sheets marked as
14 Exhibit 109?

15 A [MR. [REDACTED]]: Yes, we did.

16 Q [MR. MURPHY]: How did you select these photos?

17 A [MR. [REDACTED]]: Shortly after we--arriving at--arriving at
18 GTMO, it was discovered that my partner and myself ended up talking
19 to the majority of the bodyguards at that time. So we decided at
20 that time that we would go to our superiors and say we would like to
21 just focus on talking to just the individuals that had been
22 identified as bodyguards, try to keep it consistent with who we were
23 talking to, to build that rapport that was necessary to get

1 information from these individuals.

2 So we went to book of all the detainees and selected the
3 photographs that had been identified as bodyguards of UBL.

4 Q [MR. MURPHY]: And can you describe for us the manner in which
5 he showed these photographs to Salim Hamdan?

6 A [MR. [REDACTED]]: They were shown--they were color photographs,
7 Polaroids and we showed it to him one at a time.

8 Q [MR. MURPHY]: And what we have in evidence now are the black
9 and white versions; is that correct?

10 A [MR. [REDACTED]]: That's correct.

11 Q [MR. MURPHY]: And although they appear as sheets of papers on
12 the exhibit, they were actually shown one photo at a time?

13 A [MR. [REDACTED]]: That's correct.

14 Q [MR. MURPHY]: Please describe the manner in which you showed
15 it to the accused and what, if anything, you asked him to do with the
16 photos?

17 A [MR. [REDACTED]]: We would--we would have one photo on the
18 table. We would slide it to him and we ask if he knew anything at
19 all about that individual; if that so, could he provide us any
20 information on that individual.

21 The photocopies were used to--if he identified one of the
22 individuals, we can notate underneath the photo what he said if he
23 identified the individual for later use.

1 Q [MR. MURPHY]: Have you made markings on this exhibit that are
2 significant?

3 A [MR. [REDACTED]]: Yes, we did.

4 Q [MR. MURPHY]: And explain that to us?

5 A [MR. [REDACTED]]: The markings on--on this one indicate that he
6 was able to, once we had shown him a photo, he was able to give us
7 some information about that individual in the photograph.

8 Q [MR. MURPHY]: Now, there some photos in the exhibit that have
9 no markings?

10 A [MR. [REDACTED]]: That's correct.

11 Q [MR. MURPHY]: What's the meaning of that?

12 A [MR. [REDACTED]]: He was not able to provide us any information
13 at that time on any of those individuals.

14 CTC [MR. MURPHY]: Your Honor, I am prepared now to go through
15 the five sheets in Exhibit 109, shown only to the Military Judge, the
16 witness, and the members on the monitors. The defense has their hard
17 copy to review with us.

18 Q [MR. MURPHY]: Let's turn to the first sheet?

19 MJ [CAPT ALLRED]: These haven't been admitted in evidence yet.

20 CTC [MR. MURPHY]: I--Your Honor, I believe they said no
21 objection, but if----

22 MJ [CAPT ALLRED]: Okay.

23 CTC [MR. MURPHY]: ----if they haven't, I would formally----

1 CDC [MR. SCHNEIDER]: Without objection. I'm not sure they were
2 offered.

3 MJ [CAPT ALLRED]: Without objection, then 109 is admitted into
4 evidence. You can show that to the members.

5 Q [MR. MURPHY]: All right. Let's turn to the first sheet,
6 shown only to the Military Judge, the witness, and the members. By
7 using the quads, on those sheets, the first sheet, please tell us
8 what, if anything, Mr. Hamdan said and what you noted below each of
9 the pictures. And identify the pictures by quadrants for us.

10 A [MR. REDACTED]: The top right photo, he indicated to us that
11 he had seen that individual in Kabul at a guest house.

12 MJ [CAPT ALLRED]: Just a moment. I'm sorry. We're having a
13 little conversation here about where these photos are going to be
14 shown. All the monitors at the defense and--you can show it to the
15 members without putting it on this screen.

16 CDC [MR. SCHNEIDER]: How about if the--if the main monitor
17 power is off, would it just go to the members' screens?

18 MJ [CAPT ALLRED]: Will you power-off that monitor? I want to
19 make sure we don't----

20 CDC [MR. SCHNEIDER]: Do you want to do a test with some other
21 document, Your Honor, before the first image is up?

22 MJ [CAPT ALLRED]: I think what she's saying is if she shows it
23 to the members, it also goes to all of these monitors. Those have

1 been turned off.

2 CDC [MR. SCHNEIDER]: Ours are off.

3 MJ [CAPT ALLRED]: Yours is folded down.

4 ATC [MAJ ASHMAWY]: The prosecution's monitors have been turned
5 off, Your Honor.

6 MJ [CAPT ALLRED]: Okay. So----

7 ATC [MAJ ASHMAWY]: Our only concern remains [pointing to the
8 large monitor behind the witness] that one right there.

9 MJ [CAPT ALLRED]: That's that--that's the problem.

10 CDC [MR. SCHNEIDER]: Got a specialist.

11 **[Discussion off the record.]**

12 COURTROOM TECH: It will be permanently off right now, Judge,
13 until you tell me you want it back on, and I will come back in and
14 plug it in.

15 MJ [CAPT ALLRED]: Okay. Let's see if we can show this to the
16 members without--do the members see it now? Okay. All right. Thank
17 you.

18 Q [MR. MURPHY]: We're starting with the first sheet of this
19 exhibit. Going through the quadrants, tell us what Salim Hamdan
20 said, what notations you made, and direct us by quadrant.

21 A [MR. REDACTED]: Upper right, we showed Mr. Hamdan the
22 photograph. He indicated he had seen that individual at Kabul in a
23 guesthouse.

1 Middle left, he--again, he indicated he had seen that
2 individual in Kabul.

3 Bottom left, he indicated he had seen that individual in
4 Jalalabad, and said his name was Hamam.

5 Bottom right, he indicated he had seen this individual in
6 Kabul.

7 We showed Mr. Hamdan--again, there was an interview that
8 took place on 17 May where we also showed him the photographs again
9 to see if we could get some additional information. In the 17 May
10 2002 interview, he indicated he also seen the bottom right individual
11 in Jalalabad and Khost, and also identified him as a bodyguard, and
12 that you will see him often after 9/11 with UBL.

13 Q [MR. MURPHY]: All right. Let's turn to sheet two.

14 A [MR. REDACTED]: Bottom right, he indicated that he had seen
15 this--this individual is from Yemen, and that his name is Anas, and
16 that he was a bodyguard. The asterisk underneath the photo for us at
17 that first interview on 4--the second interview was on 4 May, that
18 indicated to us that he had identified the individual as a bodyguard.

19 Again, during the 17 May 2002 interview, we showed him this
20 photo, this photograph, and he provided additional information saying
21 he had seen this individual Anas, at UBL's house on a computer before
22 9/11, and not only was he a bodyguard but he dealt mostly with the
23 computers.

1 Q [MR. MURPHY]: All right. Let's turn to sheet three.

2 A [MR. [REDACTED]]: Top left, indicated he had seen this
3 individual in Kabul and Kandahar. And also regarding the 17 May
4 interview, he indicated that this individual was a bodyguard and that
5 he was Yemeni.

6 The middle left, identified this individual as Saqr, from
7 Saudi Arabia, and identified him as a bodyguard.

8 During the 17th May interview, in 2002, he indicated also
9 that he was seen in Jalalabad often after 9/11. He said
10 approximately ten times.

11 Q [MR. MURPHY]: All right. That was sheet three that we were
12 on; is that correct?

13 A [MR. [REDACTED]]: Correct. Bottom left, he identified this
14 individual as Abu Ghanim, and identified him as a Yemeni and also
15 that he was a bodyguard.

16 Q [MR. MURPHY]: All right. Let's turn to sheet four.

17 A [MR. [REDACTED]]: Top left, indicated that he had seen this
18 individual at the Kandahar guesthouse. Middle left, indicated that
19 this individual's name was Hubi Lani, and that he was married to the
20 individual below that picture, and also that he was a bodyguard.

21 Bottom left, indicated that individual's name was Asem al
22 Maghreb, indicated that he was a bodyguard. He also indicated in the
23 17th May 2002 interview that he had been--Asem had been with UBL

1 since Sudan, and because he was the oldest of the bodyguards, he was
2 considered to be in charge of the bodyguards.

3 Q [MR. MURPHY]: All right. Let's go to sheet five.

4 A [MR. [REDACTED]]: Top left, indicated he had seen this
5 individual from Kandahar, in the guesthouse. Top right, indicated he
6 had seen that individual in Kandahar at a guesthouse.

7 Q [MR. MURPHY]: All right. And that completes the showing; is
8 that correct?

9 A [MR. [REDACTED]]: That's correct.

10 CTC [MR. MURPHY]: Your Honor, I would retrieve from the defense
11 the classified exhibit and note that on the record.

12 Well, if they want to still handle it, that's fine.

13 CDC [MR. SCHNEIDER]: I just want to be able to use it when I
14 ask questions, but during the lunch hour----

15 MJ [CAPT ALLRED]: We're going to recess for lunch here pretty
16 quick.

17 CDC [MR. SCHNEIDER]: Okay.

18 MJ [CAPT ALLRED]: So why don't we give it back to--whoever
19 wants to be responsible for it over lunch?

20 CTC [MR. MURPHY]: Which is me, Your Honor.

21 MJ [CAPT ALLRED]: Then you can't eat any lunch.

22 CTC [MR. MURPHY]: Your Honor, we're actually at a logical spot.

23 MJ [CAPT ALLRED]: Okay. Good. Let's take a recess.

1 [The military commission recessed at 1232, 24 July 2008.]

2 [The military commission was called to order at 1404, 24 July 2008.]

3 MJ [CAPT ALLRED]: Court's called to order. All parties present
4 before the recess are once again present.

5 CTC [MR. MURPHY]: Except for Major Ashmawy.

6 MJ [CAPT ALLRED]: What's his story?

7 CTC [MR. MURPHY]: He--he is assisting us upstairs.

8 MJ [CAPT ALLRED]: Is he going to be excused from this session?

9 TC [LCDR STONE]: Yes, sir.

10 MJ [CAPT ALLRED]: Okay. Let it be done.

11 **CONTINUED DIRECT EXAMINATION**

12 **Questions by the civilian trial counsel:**

13 Q [MR. MURPHY]: Agent [REDACTED], let me turn to the topic of the
14 capture. Did you talk to Salim Hamdan about his capture by U.S.
15 forces?

16 A [MR. [REDACTED]]: Not specifically as far as asking him a
17 direct question about the capture and how everything took place.

18 Q [MR. MURPHY]: How did it come up?

19 A [MR. [REDACTED]]: During the 17 May 2002 interview with him, we
20 were showing him photos at the end. When we showed a photo to--a
21 photo of Boujaadia, he--he related to us that that individual--he had
22 met that individual when he was captured and he had said that that

1 individual had told him that he was in the car behind Hamdan when he
2 was captured.

3 Hamdan went on to state that he believed the two other
4 individuals that were in that car with Boujaadia had been killed, and
5 the individual in the car in front of him had been killed.

6 Q [MR. MURPHY]: All right. And clearly placed Boujaadia behind
7 him?

8 A [MR. [REDACTED]]: That's correct.

9 Q [MR. MURPHY]: And others in front of him?

10 A [MR. [REDACTED]]: That's correct.

11 Q [MR. MURPHY]: And he as the middle car?

12 A [MR. [REDACTED]]: That's correct.

13 CTC [MR. MURPHY]: Thank you.

14 I tender the witness.

15 **CROSS-EXAMINATION**

16 **Questions by the civilian defense counsel:**

17 Q [MR. SCHNEIDER]: Mr. [REDACTED], how are you?

18 A [MR. [REDACTED]]: Fine.

19 Q [MR. SCHNEIDER]: Just to be clear, did Mr. Hamdan ever tell
20 you anything which caused you to believe that he was involved in the
21 planning, organizing, implementation or execution of terrorist
22 attacks?

23 A [MR. [REDACTED]]: No, he did not.

1 Q [MR. SCHNEIDER]: Did he speak with you freely?

2 A [MR. [REDACTED]]: Yes, he did.

3 Q [MR. SCHNEIDER]: No one had to put any pressure on him or
4 beat it out of him or anything; right?

5 A [MR. [REDACTED]]: No, sir.

6 Q [MR. SCHNEIDER]: Did you consider him a person of
7 significant--of value, intelligence value?

8 A [MR. [REDACTED]]: At the time, we weren't exactly sure what we
9 had. That was the reason for sitting down and talking to him. We
10 knew the information that we had received from Afghanistan, as far as
11 some of the reports, so basically we were there to determine if that
12 information was correct and what other additional information the
13 individual might have.

14 Q [MR. SCHNEIDER]: Fair enough. And as far as you were
15 concerned, he wasn't--obviously hadn't been charged with a crime yet;
16 right?

17 A [MR. [REDACTED]]: That's correct.

18 Q [MR. SCHNEIDER]: And as far as you personally were concerned,
19 did you consider him to be someone who should be charged with a
20 crime?

21 A [MR. [REDACTED]]: At that time, no, sir. No.

22

23

1 Q [MR. SCHNEIDER]: But you know that--you knew at the time that
2 he had been a driver for Bin Laden?

3 A [MR. ██████████]: As far as the information that we had
4 available to us, that's what we had, correct.

5 Q [MR. SCHNEIDER]: Fair enough. You had a particular interest
6 in speaking with folks who were guards or bodyguards?

7 A [MR. ██████████]: Like I say, it seemed throughout the course
8 of being there, me and my partner ended up speaking to number of
9 individuals that turned out to be, according to the information that
10 we had, identified as bodyguards. So we made the--we made the
11 decision that since we were already speaking to some of them, we
12 thought it would be best if we spoke to all of the them, and just
13 have us two be responsible for speaking to those guys.

14 Q [MR. SCHNEIDER]: And in part were you--isn't it true that you
15 were interested in speaking with him because you knew he was alleged
16 to be somebody who was in the vicinity of Bin Laden?

17 A [MR. ██████████]: According to the records, we thought it would
18 be--first off, he was there. We were the first persons he had talked
19 to since he arrived there, so it was responsibility of ours to make
20 sure we did talk to him at least on one occasion to make sure that he
21 was who he was. But, also, yes, it was important to us to verify the
22 information that he had provided in Afghanistan.

1 Q [MR. SCHNEIDER]: The interview that you conducted on May--is
2 it May 1 or May 12, 2002?

3 A [MR. [REDACTED]]: I--I talked to Hamdan three times; May 1st,
4 May 4th, and May 17th.

5 Q [MR. SCHNEIDER]: And then did you combine those three reports
6 into one or did you have three separate reports?

7 A [MR. [REDACTED]]: No, we had two reports; May 1st and May 4th,
8 and then we had a report on May 17th.

9 Q [MR. SCHNEIDER]: Very good. So the one that's dated
10 transcription dated May 12th is the interview that occurred on the
11 1st and the 4th; right?

12 A [MR. [REDACTED]]: That's right.

13 Q [MR. SCHNEIDER]: Okay. That's what I was confused on. The
14 interview on the 1st or the 4th, was there any female interrogator
15 who worked with you?

16 A [MR. [REDACTED]]: The 1st, the May 1st interview was more of an
17 introductory, since he had just arrived there, we wanted to meet him,
18 let him know who we were, make sure he was okay, if there was any
19 concerns that he had that he needed to speak to us about and let him
20 know that we would be talking to him again in the future.

21 I don't recall if there was a female present on the 1st.
22 If it had, it was a very short interview with Mr. Hamdan. The May
23 4th interview, I believe there was a female present in that

1 interview.

2 Q [MR. SCHNEIDER]: Was that someone from another government----

3 A [MR. [REDACTED]]: It's military--MI.

4 Q [MR. SCHNEIDER]: Refer to in your report as other government
5 agency?

6 A [MR. [REDACTED]]: That's the way they wanted to be identified
7 in the reports.

8 Q [MR. SCHNEIDER]: I was just trying to make sure it's the same
9 person. I didn't--I don't have any quarrel with how it's----

10 A [MR. [REDACTED]]: Okay.

11 Q [MR. SCHNEIDER]: ----he or she is described. Okay. Let's
12 then talk a little bit about the interview on the 1st and the 4th.
13 That's summarized in a two-page report?

14 A [MR. [REDACTED]]: That's correct.

15 Q [MR. SCHNEIDER]: You've read it recently?

16 A [MR. [REDACTED]]: I have.

17 Q [MR. SCHNEIDER]: Okay. How did Mr. Hamdan perform when he
18 visited the training camp?

19 A [MR. [REDACTED]]: He--he told us he didn't do too well in the
20 camp.

21 Q [MR. SCHNEIDER]: In fact, you wrote in the report that he
22 indicated he did not do well.

23 A [MR. [REDACTED]]: That's correct.

1 Q [MR. SCHNEIDER]: You indicate in your report that he was not
2 aware of any operations that were ever planned before they were
3 executed; correct?

4 A [MR. [REDACTED]]: That's correct, but I think he was refer--at
5 that time I think the question referred to operations being planned
6 for individuals being trained in the camp, not----

7 Q [MR. SCHNEIDER]: Oh, okay. Well, let's do both, then. So
8 that was true, as far as what he told you, and also he never--he told
9 you he was never aware of any operations that were planned with
10 regard to actual terrorist activities before they were implemented?

11 A [MR. [REDACTED]]: The only operation he informed us about that
12 he was aware of that was going to happen was the one that UBL told
13 him about in the vehicle.

14 Q [MR. SCHNEIDER]: And he told you everything--everything he
15 told you about what UBL told him--or which he overheard, rather, is
16 in your report; right?

17 A [MR. [REDACTED]]: **[No response.]**

18 Q [MR. SCHNEIDER]: You relayed it in the court this morning,
19 this afternoon?

20 A [MR. [REDACTED]]: Everything that he said concerning
21 overhearing Usama Bin Laden discussing an operation in a car in
22 Kabul, he did say that, and that--that should be in the report,
23 correct.

1 Q [MR. SCHNEIDER]: And the folks that were involved at the camp
2 that he observed with regard to mines, explosions, and so forth, were
3 in a different part of the camp than he was?

4 A [MR. [REDACTED]]: That's correct.

5 Q [MR. SCHNEIDER]: Bin Laden didn't discuss any details or
6 locations about whatever operation was he had mentioned in Hamdan's
7 presence, did he?

8 A [MR. [REDACTED]]: No, sir, he did not.

9 Q [MR. SCHNEIDER]: You indicated that the guards or bodyguard
10 were identified by Mr. Hamdan; correct?

11 A [MR. [REDACTED]]: At which time?

12 Q [MR. SCHNEIDER]: He gave you names in the May 1st and 4th
13 interviews?

14 A [MR. [REDACTED]]: Of the ones that overheard about the
15 operation or the ones in the photographs?

16 Q [MR. SCHNEIDER]: The ones who were present in Kabul, yes.

17 A [MR. [REDACTED]]: Yes, he gave us the names. He gave us names
18 that he referred to them by, that's correct.

19 Q [MR. SCHNEIDER]: Eight names?

20 A [MR. [REDACTED]]: Correct.

21 [END OF PAGE]

22

23

1 Q [MR. SCHNEIDER]: Not seven, eight? I mean, I don't--I'm not
2 quarreling over the number, but I--if I saw eight in your report,
3 does that sound about right?

4 A [MR. [REDACTED]]: I would--yeah, I think eight sounds about
5 right.

6 Q [MR. SCHNEIDER]: Do you know the names--and I'm not trying to
7 test you; I just want to make sure I have them here.

8 A [MR. [REDACTED]]: If my memory recalls, it was Abu Rahman,
9 Saqr, Hamza, Abu Maryam, Abu Khadiia, Uthman, Omar, and Asem. I
10 believe that's the names they go by.

11 Q [MR. SCHNEIDER]: The name Saqr, that was Mr. Hamdan, wasn't
12 it?

13 A [MR. [REDACTED]]: No, I believe not.

14 Q [MR. SCHNEIDER]: What other----

15 A [MR. [REDACTED]]: I don't--I don't think it was, no.

16 Q [MR. SCHNEIDER]: You believe not. You don't think it was.
17 In fact, you're sure, aren't you?

18 A [MR. [REDACTED]]: I'm--I would say based on the fact that after
19 showing him the photographs, he identified another individual as
20 Saqr. I wouldn't--I wouldn't--it's reason--reasonable to believe
21 that that was the individual he was discussing.

22

23

1 Q [MR. SCHNEIDER]: I don't need to get the photographs out and
2 test my skill with the confidential treatment, but the photograph of
3 someone identified Saqr in the report is not a photograph of
4 Mr. Hamdan; right?

5 A [MR. [REDACTED]]: The one he identified as Saqr, no, that's
6 not.

7 Q [MR. SCHNEIDER]: And you're aware that there's more than one
8 Saqr among these photos?

9 A [MR. [REDACTED]]: That's correct.

10 Q [MR. SCHNEIDER]: All right. You mentioned that four of the
11 eight were drivers.

12 A [MR. [REDACTED]]: That's correct, according to what Mr. Hamdan
13 provided.

14 Q [MR. SCHNEIDER]: Of course. You're just relating what you---
15 -

16 A [MR. [REDACTED]]: Correct.

17 Q [MR. SCHNEIDER]: ----extracted or heard during the interview,
18 interrogation?

19 A [MR. [REDACTED]]: I'm relating what he told us. We didn't----

20 Q [MR. SCHNEIDER]: What he told you?

21 A [MR. [REDACTED]]: ----extract anything from him.

1 Q [MR. SCHNEIDER]: Yeah, I didn't mean to imply there was
2 anything inappropriate about the manner in which he was motivated to
3 speak with you. He spoke freely, voluntarily, willfully?

4 A [MR. [REDACTED]]: That's correct.

5 Q [MR. SCHNEIDER]: Deliberately? He knew he was giving you
6 information?

7 A [MR. [REDACTED]]: He knew he was providing us with information.
8 Yes, that's correct.

9 Q [MR. SCHNEIDER]: And there wasn't anything in it for him?

10 A [MR. [REDACTED]]: No. We made no promises to him. We just
11 asked questions. He provided answers to the questions.

12 Q [MR. SCHNEIDER]: The answers checked out, didn't they?

13 A [MR. [REDACTED]]: Concerning the individuals he identified
14 being in the camp?

15 Q [MR. SCHNEIDER]: Basically any information he gave you,
16 generally speaking, it checked out, rang true, it was corroborated?

17 A [MR. [REDACTED]]: The individuals he had identified in the
18 photos and the information concerning how he was captured, yes, that
19 checked out, based on the information that we had.

20 Q [MR. SCHNEIDER]: Pretty much right on the money as far as
21 specifics?

22 A [MR. [REDACTED]]: It was--it was pretty close or accurate, yes.

1 Q [MR. SCHNEIDER]: The person who was with you, I believe we
2 can identify that person. A detective?

3 A [MR. [REDACTED]]: That's right.

4 Q [MR. SCHNEIDER]: From where?

5 A [MR. [REDACTED]]: New York.

6 Q [MR. SCHNEIDER]: New York City Police Department?

7 A [MR. [REDACTED]]: I believe he's with the police. You know, I
8 never really asked him what--I know he was part of a specific squad
9 working with the FBI.

10 Q [MR. SCHNEIDER]: Do you know if he was down there
11 investigating an ongoing criminal matter from the City of New York?

12 A [MR. [REDACTED]]: As far as I know, no, sir.

13 Q [MR. SCHNEIDER]: No? This was in the attempt--wasn't
14 investigating crimes that occurred in New York City?

15 A [MR. [REDACTED]]: As far as I'm aware, no. He never got into a
16 discussion about--other than what we were there to do as far as talk
17 to these individuals.

18 Q [MR. SCHNEIDER]: He identified--Hamdan identified 13 separate
19 photos, didn't he?

20 A [MR. [REDACTED]]: I believe so. That's what--if that's the
21 number--if that's the number you have, yes.

1 Q [MR. SCHNEIDER]: And based on everything he told you and
2 everything else you know from your investigation, what was Hamdan
3 doing with regard to 9/11? Was he driving?

4 A [MR. [REDACTED]]: Driving before 9/11?

5 Q [MR. SCHNEIDER]: He was--before or after.

6 A [MR. [REDACTED]]: Based on what he told us, he was moving Usama
7 Bin Laden around, correct.

8 Q [MR. SCHNEIDER]: Driving? Driving the car?

9 A [MR. [REDACTED]]: To different safe houses, moving UBL's family
10 from one location to another.

11 Q [MR. SCHNEIDER]: Did you consider that he was a suspect in an
12 ongoing criminal investigation when you talked to him?

13 A [MR. [REDACTED]]: No, sir, I did not.

14 Q [MR. SCHNEIDER]: Does Mr. Said Boujaadia, you also
15 interviewed him, didn't you?

16 A [MR. [REDACTED]]: Yes, we did.

17 Q [MR. SCHNEIDER]: May 13th?

18 A [MR. [REDACTED]]: I believe that's correct, yes.

19 Q [MR. SCHNEIDER]: Or May 7th, transcribed on May 13th, 2002?

20 A [MR. [REDACTED]]: The date is on the top right, and if it's the
21 13th, yes, that's the date that it was transcribed.

1 Q [MR. SCHNEIDER]: And there was another individual whose name
2 I'm not going to use who was--who was with you on the second occasion
3 when you interviewed Mr. Hamdan; right?

4 A [MR. [REDACTED]]: That's correct.

5 Q [MR. SCHNEIDER]: No names. And Mr. Hamdan said that
6 Boujaadia was in the car behind him and that the two individuals with
7 Boujaadia were shot and killed?

8 A [MR. [REDACTED]]: That's correct.

9 Q [MR. SCHNEIDER]: The fellow in the car in front of him was
10 shot and killed?

11 A [MR. [REDACTED]]: He believed that the individual in the car in
12 front was killed, yes.

13 Q [MR. SCHNEIDER]: So Boujaadia was in the car with--at least
14 with people who had weapons, according to what you heard?

15 A [MR. [REDACTED]]: He was with two individuals--two other
16 individuals in the car behind him. He never said anything about
17 having weapons or anything like that.

18 Q [MR. SCHNEIDER]: He never told you if he knew anything about
19 why they were shot and killed?

20 A [MR. [REDACTED]]: No.

21 Q [MR. SCHNEIDER]: Do you know where Mr. Boujaadia is today?

22 A [MR. [REDACTED]]: No, sir, I do not. My assumption would be
23 here, if not, then I'm--after I left here, I moved on to doing a

1 different type of job.

2 Q [MR. SCHNEIDER]: Would it surprise you to know that sometime
3 after December 6th, 2007, Mr. Boujaadia, the individual who was with
4 those two Arabs who were killed, as they were--as he was after
5 Hamdan, was released and he's back in his home country free and
6 walking the streets? Would it surprise you?

7 A [MR. [REDACTED]]: Yes.

8 Q [MR. SCHNEIDER]: A little bit?

9 A [MR. [REDACTED]]: A little bit, yeah.

10 Q [MR. SCHNEIDER]: Is it your understanding Mr. Hamdan was
11 involved in any use of firearms, use of grenades, attempted use of
12 firearms, use of the grenades, or any other action like that when he
13 was apprehended?

14 A [MR. [REDACTED]]: I'm not aware of any information on that.

15 Q [MR. SCHNEIDER]: The--have we gone over the rights advisement
16 yet?

17 A [MR. [REDACTED]]: As far as----

18 Q [MR. SCHNEIDER]: When you give rights advisements.

19 A [MR. [REDACTED]]: Yes.

20 Q [MR. SCHNEIDER]: Do you give them to people who are suspects
21 in crimes involving terrorist activities if you interview them in the
22 United States?

23 A [MR. [REDACTED]]: Yes, we do.

1 Q [MR. SCHNEIDER]: You've actually done that; right?

2 A [MR. [REDACTED]]: Given rights advisement--not in terrorism
3 cases, no.

4 Q [MR. SCHNEIDER]: Okay. And the rights advisement typically
5 when someone is a suspect in an ongoing criminal investigation and
6 detained; correct?

7 A [MR. [REDACTED]]: Correct.

8 Q [MR. SCHNEIDER]: And Mr. Hamdan was detained and there was at
9 least an ongoing criminal investigation even if you weren't down here
10 involved in it with regard to the terrorist attacks; right? If you
11 know. I mean----

12 A [MR. [REDACTED]]: As far as my--my belief of what I was doing,
13 it was gathering information from these individuals that could help
14 us out as far as what was going on in Afghanistan; what their
15 background were, and what they knew about other potential attacks
16 that might take place.

17 Q [MR. SCHNEIDER]: Sources of information?

18 A [MR. [REDACTED]]: Correct.

19 Q [MR. SCHNEIDER]: Okay. I would like to show you a document
20 that's secret, so I'm not going to use the monitor. What I prefer is
21 to have an original go to the Military Judge. And I believe it will
22 be admissible without objection, so I may try to avoid foundation
23 that otherwise might implicate confidentiality concerns?

1 MJ [CAPT ALLRED]: Have you seen this trial counsel?

2 CTC [MR. MURPHY]: If I can just see it for a moment, Your
3 Honor.

4 CDC [MR. SCHNEIDER]: I have one for the witness as well, if you
5 would like to hang on to that while I ask him questions.

6 MJ [CAPT ALLRED]: No. I'll return this to you. You may show
7 it to the witness if there's no objection from the government.

8 CTC [MR. MURPHY]: No objection, Your Honor.

9 MJ [CAPT ALLRED]: How will this be marked, LN1? Defense
10 Exhibit C--D. This is Defense Exhibit D.

11 Q [MR. SCHNEIDER]: I'll refer to this as Exhibit D. And before
12 I ask you to--why don't you go ahead and have a look at it and take
13 as much time as you like.

14 A [MR. [REDACTED]]: I'm--I'm familiar with this type of report.

15 Q [MR. SCHNEIDER]: You're familiar with the document?

16 A [MR. [REDACTED]]: No, not--the type of report that it is; not
17 the type--not this information.

18 Q [MR. SCHNEIDER]: Very well. We'll get--we'll get to that in
19 a minute. Have you read the entire thing?

20 A [MR. [REDACTED]]: **[Examining DE D for ID.]** Okay.

21 CDC [MR. SCHNEIDER]: Defense offers Exhibit D. And I
22 understand there will be no objection.

23 CTC [MR. MURPHY]: That's correct, Your Honor.

1 MJ [CAPT ALLRED]: Okay. No questions for the witness about it,
2 then?

3 CDC [MR. SCHNEIDER]: A few. A few questions and then we'll
4 move on.

5 MJ [CAPT ALLRED]: Okay. Bailiff, would you deliver Defense
6 Exhibit D to the court reporter, please? Without objection, that is
7 admitted into evidence as Defense Exhibit D.

8 Q [MR. SCHNEIDER]: Now, generally speaking--generally speaking,
9 is this the type of information which would have been of value to you
10 at the time that you were interviewing Mr. Hamdan?

11 A [MR. [REDACTED]]: It would have helped as far as developing
12 questions to ask Mr. Hamdan, yes.

13 Q [MR. SCHNEIDER]: Were you shown this?

14 A [MR. [REDACTED]]: I don't recall seeing that, no.

15 Q [MR. SCHNEIDER]: Did you notice from the date on the document
16 that it apparently preceded your interview?

17 A [MR. [REDACTED]]: The way it was written, it is. Apparently it
18 was done early on.

19 Q [MR. SCHNEIDER]: I know you don't know by whom it was written
20 or why or if the date is accurate. But on the date that's there,
21 that's before you interviewed Mr. Hamdan?

22 A [MR. [REDACTED]]: Correct.

1 CDC [MR. SCHNEIDER]: Okay. And I understand that will be made
2 available to the members at some point.

3 MJ [CAPT ALLRED]: Yes.

4 Q [MR. SCHNEIDER]: Okay. Generally speaking--I'm going to ask
5 you about topics now. I'm not going to get into any specifics.
6 Generally speaking, you said that this is the type of information
7 you've seen before; right?

8 A [MR. [REDACTED]]: I--I've written reports such as those before.
9 I've read reports such as those before, yes.

10 Q [MR. SCHNEIDER]: Written as well as read them, based on your
11 prior position?

12 A [MR. [REDACTED]]: Correct.

13 Q [MR. SCHNEIDER]: This is the type of information that someone
14 in your current line of business, in your profession as it was in May
15 of 2002, would customarily rely on when investigating events and
16 trying to gather intelligence?

17 A [MR. [REDACTED]]: It's--it's raw reporting. It's unevaluated,
18 raw intelligence.

19 Q [MR. SCHNEIDER]: Is it your understanding--and I'd just like
20 a yes or no so I don't run afoul of the confidentiality. Is it your
21 understanding that this was a document that originated in someplace
22 other than the United States?

23 A [MR. [REDACTED]]: I would believe so, yes.

1 Q [MR. SCHNEIDER]: Other than Guantanamo?

2 A [MR. [REDACTED]]: I believe so, yes. I--I'm not sure of any
3 reports as far as those types coming out of here. I know I was not
4 part of that, so----

5 Q [MR. SCHNEIDER]: Did it--did it appear to have been created,
6 if the date on it is accurate, at a time when Mr. Hamdan was still in
7 another part of the world; correct?

8 A [MR. [REDACTED]]: Correct.

9 Q [MR. SCHNEIDER]: All right. Generally speaking--I'm not
10 going to get into any specifics, but would information about Usama
11 Bin Laden's security entourage be of interest to you in May of 2002?

12 A [MR. [REDACTED]]: Yes, it would have been helpful.

13 Q [MR. SCHNEIDER]: Particularly if it was about an entourage
14 before--just before and after September 11th, 2001?

15 A [MR. [REDACTED]]: It would provide us additional details on
16 how--again, how to focus who we're going to talk to and what
17 questions we're going to ask, correct.

18 Q [MR. SCHNEIDER]: Okay. I'm not suggesting it would crack the
19 case or solve all of your problems, but it would be relevant, it
20 would be information you would find helpful and of the type you
21 typically want?

22 A [MR. [REDACTED]]: Yes, it would be helpful.

23

Q [MR. SCHNEIDER]: And if someone had been able to share with you information about, I mean, perhaps even what type of weapons were in the entourage, would that be of interest?

A [MR. ██████████]: Again, those are details that we would be able to go back to the detainees--with bodyguards that we had here, who had--and ask them questions concerning the information in the report, correct?

Q [MR. SCHNEIDER]: How about if the information included details about any body armor that can protect them?

A [MR. ██████████] Again, those are--those are types of--it's the type of information that you could work into a question to see if the individual has additional information concerning that, yes.

Q [MR. SCHNEIDER]: Particularly if you were able to talk to, for instance, the top guard, head of security? Would that be of interest to you, talking to the top guy?

A [MR. ██████████]: Yes.

Q [MR. SCHNEIDER]: Absolutely; right?

A [MR. ██████████]: Correct.

[END OF PAGE]

1 Q [MR. SCHNEIDER]: Okay. And if you could have known before
2 you interviewed whoever you interviewed at Guantanamo, let's take all
3 30 plus, the number of cars in the convoy, the types of cars, make
4 and model, the order of movement, the order in which Bin Laden was
5 placed, communications equipment and the like, that would have been
6 of interest; right?

7 A [MR. [REDACTED]]: It would have helped, again, in developing
8 questions and verifying--number one, verifying that the information
9 we had in that report was correct. Again, that's raw intelligence.
10 So that's one way of going back to these individuals and verifying
11 that information. That would be one thing we'd like to do, yes.

12 Q [MR. SCHNEIDER]: Very well. Have you ever interviewed anyone
13 outside the United--let me now leave that topic so we don't have to
14 dance around with the details.

15 Have you ever interviewed someone outside the United
16 States, not in Guantanamo, with regard to anything having to do with
17 terrorism or the attacks of 9/11, the COLE bombing, the embassy
18 bombings?

19 A [MR. [REDACTED]]: No, I don't believe so.

20 [END OF PAGE]

1 Q [MR. SCHNEIDER]: I won't ask you those questions.

2 Was Mr. Hamdan respectful when he dealt with you; polite,
3 courteous?

4 A [MR. [REDACTED]]: He was polite. He was polite. He was--he
5 was courteous. He was talkative.

6 Q [MR. SCHNEIDER]: You got along well with him?

7 A [MR. [REDACTED]]: Yeah, he was--yes, I would say that we--for
8 the short period of time that we did talk with him, he was--he was--
9 yes, he was courteous, we got along.

10 Q [MR. SCHNEIDER]: Did you ever ask him who was really in the
11 inner circle?

12 A [MR. [REDACTED]]: No, we didn't. The first--again, we went in--
13 -probably the most substantive interview we had was the 4th, and we
14 went in there just with a couple of questions that we wanted to ask,
15 so we weren't looking at doing a full-bore interview of, you know,
16 take four to six to eight hours trying to get to every detail. We
17 knew--we knew there would be enough time to develop a rapport with
18 Mr. Hamdan and discuss certain issues with him. So we only had a
19 couple of issues that we wanted to talk to him.

20 [END OF PAGE]

21

22

23

1 Q [MR. SCHNEIDER]: Okay. And I'm trying to put all your
2 interviews down, all three of them. Did you ever ask him,
3 Mr. Hamdan, Salim, who was in the inner circle? Who was doing the
4 planning, organizing, the execution, the actual execution of the
5 terrorist attacks?

6 A [MR. [REDACTED]]: No, we didn't.

7 Q [MR. SCHNEIDER]: Now, I realize you had specific topics about
8 which you were interested. Lots of other people were involved
9 besides yourself; correct?

10 A [MR. [REDACTED]]: Correct.

11 Q [MR. SCHNEIDER]: Let me ask you about one particular name
12 that came up in your direct. This fellow Abu Asem Al-Maghribi?

13 A [MR. [REDACTED]]: I believe that's Abu----

14 Q [MR. SCHNEIDER]: Yes.

15 A [MR. [REDACTED]]: ----Al-Maghribi.

16 Q [MR. SCHNEIDER]: Have you ever seen Mr. [REDACTED]'s Exhibit 20--
17 it's actually not his exhibit, it's now our exhibit. Exhibit 23 in
18 this case is something [REDACTED] prepared. Can we publish that?
19 It's already admitted?

20 MJ [CAPT ALLRED]: Yes.

21 CDC [MR. SWIFT]: You need to get the monitor----

22 CDC [MR. SCHNEIDER]: The monitor is still off.

23

1 [The Military Judge asked the bailiff to ask the courtroom technician
2 to reconnect the monitor.]

3 MJ [CAPT ALLRED]: Okay. Why don't you go ahead and continue
4 your examination and we'll see if we can get that----

5 CDC [MR. SCHNEIDER]: Okay.

6 MJ [CAPT ALLRED]: ----organized here.

7 Q [MR. SCHNEIDER]: Do you recognize those faces?

8 A [MR. [REDACTED]]: Yeah. Yes, I do. I've never seen this,
9 though.

10 Q [MR. SCHNEIDER]: Not this particular display of their photos,
11 but there's no mystery about who these guys are?

12 A [MR. [REDACTED]]: Correct.

13 Q [MR. SCHNEIDER]: Okay. Top guys involved in the terrorist
14 attacks?

15 A [MR. [REDACTED]]: Correct.

16 Q [MR. SCHNEIDER]: The bottom of the--what we've called slide 5
17 of Exhibit 23, that is the fella you just mentioned; right?

18 A [MR. [REDACTED]]: Correct.

19 Q [MR. SCHNEIDER]: He also goes by another name, doesn't he;
20 Tabur----

21 A [MR. [REDACTED]]: Tabarak.

22 Q [MR. SCHNEIDER]: Tabarak. You knew that?

23 A [MR. [REDACTED]]: Correct.

1 Q [MR. SCHNEIDER]: Okay. And Mr. Hamdan actually identified
2 him for you, didn't he?

3 A [MR. [REDACTED]]: That's correct.

4 Q [MR. SCHNEIDER]: He actually saw a photograph. You didn't
5 lead him to tell you a particular name. He said that's Tabarak;
6 right?

7 A [MR. [REDACTED]]: He said it was Abu Asem.

8 Q [MR. SCHNEIDER]: He used that name?

9 A [MR. [REDACTED]]: Yes.

10 Q [MR. SCHNEIDER]: Okay. Same person, right?

11 A [MR. [REDACTED]]: Same person.

12 Q [MR. SCHNEIDER]: Did he tell you what his position was?

13 A [MR. [REDACTED]]: According to Hamdan, he indicated that
14 because of his age, he was considered the head bodyguard, in charge
15 of all the bodyguards.

16 Q [MR. SCHNEIDER]: Did you head down the hall to interview him
17 next?

18 A [MR. [REDACTED]]: I did--I attempted to talk to him on a number
19 of occasions, yes, I did.

20 Q [MR. SCHNEIDER]: Unsuccessfully?

21 A [MR. [REDACTED]]: Unsuccessfully.

22 Q [MR. SCHNEIDER]: Uncooperative?

23 A [MR. [REDACTED]]: Uncooperative.

1 Q [MR. SCHNEIDER]: Unwilling to speak?

2 A [MR. [REDACTED]]: That's correct.

3 Q [MR. SCHNEIDER]: Wouldn't volunteer any information?

4 A [MR. [REDACTED]]: That's correct.

5 Q [MR. SCHNEIDER]: To you or anybody else?

6 A [MR. [REDACTED]]: As far as I know, that's correct.

7 Q [MR. SCHNEIDER]: Do you know how many times people tried to
8 interview him?

9 A [MR. [REDACTED]]: No, sir. I know many times--I believe I know
10 how many times we tried to talk to him here, when I was here.

11 Q [MR. SCHNEIDER]: How many?

12 A [MR. [REDACTED]]: Three--I would say three or four. That's--
13 that's a safe guess on my part, at least three or four time.

14 Q [MR. SCHNEIDER]: Mr. Hamdan told you he was head of all the
15 guards; right?

16 A [MR. [REDACTED]]: He was in charge because of his age. That's
17 how Mr. Hamdan put it.

18 Q [MR. SCHNEIDER]: And respected because of his age?

19 A [MR. [REDACTED]]: Correct.

20 [END OF PAGE]

21

22

23

1 Q [MR. SCHNEIDER]: Did the information Mr. Hamdan told you
2 about this fellow check out? Was it right on the money? Was he the-
3 -was he involved in security and guards?

4 A [MR. [REDACTED]]: As far as the information that we had coming
5 out of Afghanistan, some of the reporting that we saw, yes, it did
6 check out that he was.

7 Q [MR. SCHNEIDER]: Do you know anything about the circumstances
8 of Mr. Abu----

9 A [MR. [REDACTED]]: Asem.

10 Q [MR. SCHNEIDER]: ----Asem's capture?

11 A [MR. [REDACTED]]: No, sir, I don't.

12 Q [MR. SCHNEIDER]: Are you--have you ever heard--I'm just
13 trying to refresh your recollection; I'm not trying to put words in
14 your mouth. Have you ever heard anything about him using Usama Bin
15 Laden's cell phone----

16 A [MR. [REDACTED]]: No.

17 Q [MR. SCHNEIDER]: ---as a decoy and driving away from where
18 Usama Bin Laden was?

19 A [MR. [REDACTED]]: No, sir.

20 Q [MR. SCHNEIDER]: No? Okay. He was at Guantanamo?

21 A [MR. [REDACTED]]: Correct.

22

23

1 Q [MR. SCHNEIDER]: Can you go see him today?

2 A [MR. [REDACTED]]: I don't know. I wouldn't know. I'm not
3 doing this type of work.

4 Q [MR. SCHNEIDER]: Oh, fair enough.

5 A [MR. [REDACTED]]: So----

6 Q [MR. SCHNEIDER]: But if you could talk to him today, would
7 you try?

8 A [MR. [REDACTED]]: It would be interesting to see him again. He
9 was a harsh individual. Yes, it would be interesting to see him.

10 Q [MR. SCHNEIDER]: Harsh?

11 A [MR. [REDACTED]]: He was a very hard individual.

12 Q [MR. SCHNEIDER]: Hard individual?

13 A [MR. [REDACTED]]: Correct.

14 Q [MR. SCHNEIDER]: I don't doubt that. I just want to know
15 what you mean by that. Can you describe in a little more detail why
16 you say he was a hard individual?

17 A [MR. [REDACTED]]: Just his demeanor when we attempted to talk
18 to him. He was very serious.

19 Q [MR. SCHNEIDER]: Do you know if he's still here?

20 A [MR. [REDACTED]]: I have no idea.

21 Q [MR. SCHNEIDER]: Would it surprise you to learn that he's
22 been released without ever being charged?

23 A [MR. [REDACTED]]: Yes.

1 Q [MR. SCHNEIDER]: That would surprise you?

2 A [MR. [REDACTED]]: Yes, it would.

3 Q [MR. SCHNEIDER]: Okay. Have you ever investigated a
4 conspiracy?

5 A [MR. [REDACTED]]: No, sir, I haven't.

6 Q [MR. SCHNEIDER]: Never?

7 A [MR. [REDACTED]]: No, sir.

8 CDC [MR. SCHNEIDER]: Well, then, I'm not going to ask you about
9 what you did when you did that. Thanks for your time.

10 **REDIRECT EXAMINATION**

11 **Questions by the civilian trial counsel:**

12 Q [MR. MURPHY]: Mr. Schneider asked you a number of questions
13 on cross on whether you considered Salim--Salim Hamdan a suspect or
14 if he was an Intel target. Do you recall those questions?

15 A [MR. [REDACTED]]: Yes, I do.

16 Q [MR. MURPHY]: And there's special consideration when you
17 answered that because you were doing your work here at the Joint Task
18 Force, Guantanamo Bay, and that's different from your normal work as
19 a NCIS agent where you work as a criminal investigator; is that
20 right?

21 A [MR. [REDACTED]]: I can work in both capacities as a Special
22 Agent with NCIS.

23

1 Q [MR. MURPHY]: Right. Again, you have that other capacity?

2 A [MR. [REDACTED]]: Correct.

3 Q [MR. MURPHY]: And in that other capacity, you arrest people
4 and see cases forward, develop cases to--where charges are brought
5 and people brought to trial; is that right?

6 A [MR. [REDACTED]]: That's correct.

7 Q [MR. MURPHY]: And in your normal criminal work, if you came
8 across Mr. Hamdan and you learned that he was transporting missiles,
9 SA missiles, to shoot down coalition aircraft, that he had helped
10 Usama Bin Laden, with protective services, armed protective services,
11 stealth movements, obtained vehicles, after--before and after the
12 East Africa attack, after the COLE attack, and after 9/11 attack, and
13 you learned all of that and you found Salim Hamdan, say, in the
14 United States, what would you do as a trained federal agent?

15 A [MR. [REDACTED]]: I would attempt to arrest him and read him
16 rights and start an investigation on the information that we had.

17 Q [MR. MURPHY]: Would you view him, based on all of those
18 facts, as an individual who's alleged to have serious criminal
19 violations?

20 A [MR. [REDACTED]]: Yes, I would.

21 Q [MR. MURPHY]: Chargeable under federal statute?

22 A [MR. [REDACTED]]: Yes, I would.

23

1 Q [MR. MURPHY]: And would you view those offenses as serious if
2 you saw it in that setting?

3 A [MR. [REDACTED]]: Yes, sir, I would.

4 Q [MR. MURPHY]: And is the reason it's different in that
5 setting is you are not in your traditional law enforcement role but
6 you had an important intelligence role as well; is that right?

7 A [MR. [REDACTED]]: That's correct. That was my understanding.

8 Q [MR. MURPHY]: Would you consider Mr. Hamdan to be fully and
9 completely truthful with you during your interviews?

10 A [MR. [REDACTED]]: Based on verifying information that he
11 provided to us, yes, I would.

12 Q [MR. MURPHY]: Do you think he left out information?

13 A [MR. [REDACTED]]: I'm sure he did.

14 Q [MR. MURPHY]: Why do you feel that way?

15 A [MR. [REDACTED]]: During the course of talking with Hamdan, you
16 had to be--you had to be very cognizant of how we were asking the
17 questions because he--he would respond to the question that you asked
18 him. So you had to be very particular and very specific about the
19 type of information you were trying to elicit from him.

20 He--he would only provide the answer to the question that
21 you asked, so you had to make sure that you kind of broadened and a
22 little bit, you were a little bit more specific about how you were
23 going about trying to get information from him.

1 Q [MR. MURPHY]: Did you push him on the consistency or the
2 inconsistency statements?

3 A [MR. [REDACTED]]: We--we would go back and question him
4 concerning what he had told us to try to see if he would change.
5 Again, during the 17th May, and we showed him the photographs again,
6 just to see if he would provide us the same type of information or
7 provide us additional information, which he did based on his
8 recollection or based on his determining that he remembered something
9 or he had forgotten to tell us something the first time.

10 CTC [MR. MURPHY]: All right. Thank you. I have nothing
11 further.

12 Do you have more questions?

13 CDC [MR. SCHNEIDER]: Just a couple. Is that okay?

14 WIT [MR. [REDACTED]]: That's absolutely fine.

15 **RECROSS EXAMINATION**

16 **Questions by the civilian defense counsel:**

17 Q [MR. SCHNEIDER]: That hypothetical about what would happen if
18 he was charged in the United States. True or untrue; there have been
19 people charged with crimes arising out of the 9/11 attack?

20 A [MR. [REDACTED]]: That's correct.

21 Q [MR. SCHNEIDER]: Charged with murder?

22 A [MR. [REDACTED]]: That's correct.

1 Q [MR. SCHNEIDER]: You realize Mr. Hamdan is not charged with a
2 violation of any federal crime in the sense of something that would
3 be brought by the United States Attorney; right?

4 CTC [MR. MURPHY]: Objection, Your Honor. He is charged with a
5 federal offense.

6 Q [MR. SCHNEIDER]: Let me ask it a different way. I--I don't
7 want to quibble.

8 Are you--are you aware that he's been charged with
9 violating a war crime--committing a war crime, violating the laws of
10 war? Did you know that?

11 A [MR. [REDACTED]]: I know he was charged with conspiracy and--
12 and material support of terrorism, correct?

13 Q [MR. SCHNEIDER]: Those are the only two charges?

14 A [MR. [REDACTED]]: That I'm aware of.

15 CDC [MR. SCHNEIDER]: Thank you.

16 CTC [MR. MURPHY]: Nothing further, Your Honor.

17 MJ [CAPT ALLRED]: Okay. Members of the court, do you have any
18 questions for this agent--Agent [REDACTED]?

19 MEMBERS: **[No response.]**

20 MJ [CAPT ALLRED]: Can we excuse him to return to his duties,
21 then?

22 CTC [MR. MURPHY]: We can, Your Honor. He's not listed as a
23 defense witness.

1 **Questions by the civilian defense counsel:**

2 Q [MR. SCHNEIDER]: Agent [REDACTED], Harry Schneider. We met
3 yesterday?

4 A [MR. [REDACTED]]: Yes.

5 Q [MR. SCHNEIDER]: I think you just--I introduced myself and
6 that was it; right?

7 A [MR. [REDACTED]]: Um-hum.

8 Q [MR. SCHNEIDER]: You have to leave town tomorrow?

9 A [MR. [REDACTED]]: Yes.

10 Q [MR. SCHNEIDER]: I'm going to ask you just a few questions.
11 I'm going to try to go right to the heart of the examination so that
12 you can get on your way; okay?

13 A [MR. [REDACTED]]: Thank you.

14 Q [MR. SCHNEIDER]: That means I'll try to ask you specific
15 topics about which I would like you to respond, and I'm not going to
16 go into a lot of other detail, and I'll explain why in a second;
17 okay?

18 You attended in the course of your job as an agent an
19 interview conducted by colleague Agent [REDACTED] in June of '02;
20 correct?

21 A [MR. [REDACTED]]: June/July of '02.

22 Q [MR. SCHNEIDER]: Right. It was 14 days, wasn't it?

23 A [MR. [REDACTED]]: I remember it slightly under two weeks.

1 Q [MR. SCHNEIDER]: Would the dates June 26 and July 10 ring a
2 bell?

3 A [MR. [REDACTED]]: Possibly.

4 Q [MR. SCHNEIDER]: The first being the day it started, the last
5 being the day after it ended, when it was transcribed?

6 A [MR. [REDACTED]]: I'm not a hundred percent sure on the first
7 date, but it sound about right.

8 Q [MR. SCHNEIDER]: All right. And in attendance at that
9 interview was not only Agent [REDACTED], who was there for the entirety,
10 but you were there for a portion, and Agent [REDACTED] was there but only
11 for a portion; right?

12 A [MR. [REDACTED]]: Yes.

13 Q [MR. SCHNEIDER]: And, in fact, he was there when you were
14 not?

15 A [MR. [REDACTED]]: Yes.

16 Q [MR. SCHNEIDER]: You were there when he was not?

17 A [MR. [REDACTED]]: That's correct.

18 [END OF PAGE]

1 Q [MR. SCHNEIDER]: Okay. I'm not going to take you through the
2 entire report. I just want to ask you about a couple of topics,
3 because Agent [REDACTED] is going to testify tomorrow, and Agent [REDACTED]
4 already testified. Okay?

5 I'd like to take you to one specific topic involving the
6 bombing of the USS COLE. Did Mr. Hamdan provide information to you
7 which you considered to be important and helpful to your
8 investigation?

9 A [MR. [REDACTED]]: Yes.

10 Q [MR. SCHNEIDER]: Did he provide it voluntarily?

11 A [MR. [REDACTED]]: Yes.

12 Q [MR. SCHNEIDER]: Cooperatively?

13 A [MR. [REDACTED]]: Yes.

14 Q [MR. SCHNEIDER]: Was he at all times respectful with you?

15 A [MR. [REDACTED]]: Yes.

16 Q [MR. SCHNEIDER]: Did he ever--did you ever discuss with him
17 doing anything more than telling you about what he had overheard?
18 His information was that he had overheard, those responsible, talk
19 about it; right?

20 A [MR. [REDACTED]]: Yes.

21 Q [MR. SCHNEIDER]: In fact, he had overheard them being--at
22 least one person being boastful about it?

23 A [MR. [REDACTED]]: Yes, he did.

1 Q [MR. SCHNEIDER]: And who was--who was that person that he had
2 overheard, who, in effect, was implicated by what Mr. Hamdan told
3 you?

4 A [MR. [REDACTED]]: He was discussing an individual by the name
5 of Abd Rahim al-Nashiri, and who--who our investigations during the
6 USS COLE investigation in Yemen was proven to be one of the main
7 masterminds of the attack.

8 Q [MR. SCHNEIDER]: Al-Nashiri?

9 A [MR. [REDACTED]]: Yes. I'm not sure of the pronunciation.

10 Q [MR. SCHNEIDER]: He also goes by another name; correct?
11 Bilal?

12 A [MR. [REDACTED]]: Yes.

13 Q [MR. SCHNEIDER]: Mullah? Bilal?

14 A [MR. [REDACTED]]: One of them.

15 Q [MR. SCHNEIDER]: I apologize for my pronunciation, which I
16 know is off. Yours seems better. You're a native Arab speaker,
17 aren't you?

18 A [MR. [REDACTED]]: Yes, that's correct.

19 Q [MR. SCHNEIDER]: Was Mr. Hamdan a--an effective communicator
20 of what he knew about what al-Nashiri--Nashiri had said?

21 A [MR. [REDACTED]]: Yes, he was.

22

23

1 Q [MR. SCHNEIDER]: What do you mean--that was my word, but how
2 was he effective?

3 A [MR. [REDACTED]]: Well, he was effective in that he was in
4 very close proximity and was obviously attentive of what Nashiri was--
5 -well, what Nashiri was talking about how he planned the attack and
6 executed it.

7 Q [MR. SCHNEIDER]: When Mr. Hamdan told you these things, was
8 he credible, as far as you could tell?

9 A [MR. [REDACTED]]: Yes.

10 Q [MR. SCHNEIDER]: Did the information he gave you check out?

11 A [MR. [REDACTED]]: It--it checked out in terms of what we knew
12 of the personality of al-Nashiri, but also in terms of what we had
13 gathered in Yemen.

14 Q [MR. SCHNEIDER]: In fact, based on all the information you
15 have today on all the investigations that have preceded today, the
16 information Mr. Hamdan told you voluntarily was right on the money,
17 wasn't it?

18 A [MR. [REDACTED]]: It was correct as far as we could determine.

19 Q [MR. SCHNEIDER]: Was he a compelling witness? In fact, would
20 you consider him compelling when he described that to you?

21 A [MR. [REDACTED]]: Yes.

22

23

1 Q [MR. SCHNEIDER]: Did it ever occur to you that he might be of
2 some further value to you?

3 A [MR. [REDACTED]]: Yes.

4 Q [MR. SCHNEIDER]: What type?

5 A [MR. [REDACTED]]: We had been floating the idea that--at the
6 time, Mullah Bilal, or Nashiri, had not been captured yet. He was
7 still at large. And, you know, we were not sure what the--what the
8 legal mechanism would have been once he was captured or what
9 jurisdiction he would have been tried under. But the thought in our
10 minds was that we could most possibly use Mr. Hamdan as a witness in-
11 -in the trial of Nashiri.

12 Q [MR. SCHNEIDER]: Did he refuse to ever consider doing that?

13 A [MR. [REDACTED]]: No. He--he seemed open to it. It wasn't
14 very explicit. However, I think the term that he used was, "A
15 drowning man will reach for a twig, and I'm a drowning man."

16 Q [MR. SCHNEIDER]: Meaning he would do it?

17 A [MR. [REDACTED]]: He would, yes. Implying that, yes, he would
18 do it.

19 Q [MR. SCHNEIDER]: Was Bilal ever captured?

20 A [MR. [REDACTED]]: Yes.

21 Q [MR. SCHNEIDER]: Let me ask you this. At the time you talked
22 to Mr. Hamdan, was Bilal a suspect in a crime?

23 A [MR. [REDACTED]]: Absolutely.

1 Q [MR. SCHNEIDER]: I mean, a major league crime?

2 A [MR. [REDACTED]]: Yes.

3 Q [MR. SCHNEIDER]: Was Mr. Hamdan a valuable source of
4 information to prosecute Bilal, if you could?

5 A [MR. [REDACTED]]: We had a lot of evidence against Bilal.
6 The--what Mr. Hamdan would have brought to the table was--would have
7 been eyewitness account of Bilal admitting to the crime.

8 Q [MR. SCHNEIDER]: Having been there----

9 A [MR. [REDACTED]]: Yes.

10 Q [MR. SCHNEIDER]: ----in his vicinity, proximate enough to
11 overhear him talk about it?

12 And as far as you could tell--I know nothing was ever
13 finalized--he was willing to do that.

14 A [MR. [REDACTED]]: When I left, I left with that impression,
15 that he was willing to do that.

16 Q [MR. SCHNEIDER]: Bilal was captured, wasn't he?

17 A [MR. [REDACTED]]: Yes.

18 Q [MR. SCHNEIDER]: Where does he live today?

19 A [MR. [REDACTED]]: Probably a few hundred meters from here.

20 Q [MR. SCHNEIDER]: Has he been charged with a crime?

21 A [MR. [REDACTED]]: He--yes.

22

23

1 Q [MR. SCHNEIDER]: Now, Mr. Hamdan, in our opinion, was never a
2 suspect in a crime, was he?

3 A [MR. [REDACTED]]: In that crime, no.

4 Q [MR. SCHNEIDER]: Have you ever tried to interview other
5 people, maybe even suspects in a terrorist crime like the COLE
6 bombing?

7 A [MR. [REDACTED]]: I did, in the COLE bombing specifically, in
8 Aden, Yemen.

9 Q [MR. SCHNEIDER]: Were they all willing to just sit down and
10 tell you what they knew, all of them?

11 A [MR. [REDACTED]]: They--some had a very significant facts, but
12 I had done the interviews in conjunction with Special Agent [REDACTED],
13 and NCIS Special Agent [REDACTED].

14 Q [MR. SCHNEIDER]: [REDACTED] is pretty effective, isn't he?

15 A [MR. [REDACTED]]: Extremely effective.

16 Q [MR. SCHNEIDER]: I mean, I thought I was answering his
17 questions the other day rather than the other way around.

18 A [MR. [REDACTED]]: I--I've learned a lot from him, yes.

19 Q [MR. SCHNEIDER]: More seriously, let me ask you this. Do you
20 ever encounter witnesses, particularly those who are actual suspects,
21 who are unwilling to talk to you, unwilling to say anything about
22 somebody they know is actually involved?

23 A [MR. [REDACTED]]: Yes.

1 Q [MR. SCHNEIDER]: Have you ever met any of these, such people
2 who are defiant about their role, proud of it?

3 A [MR. [REDACTED]]: Yes.

4 Q [MR. SCHNEIDER]: Willing to say they're involved?

5 A [MR. [REDACTED]]: Yes.

6 Q [MR. SCHNEIDER]: But not willing to cooperate in any way?

7 A [MR. [REDACTED]]: Of course; yes.

8 Q [MR. SCHNEIDER]: Thank you for your time. Last question.

9 You were not asked to testify by the prosecution; correct?

10 A [MR. [REDACTED]]: No.

11 MJ [CAPT ALLRED]: No, that was not correct or, no, you were not
12 asked to testify by the prosecution?

13 WIT [MR. [REDACTED]]: I was asked to testify specifically by
14 defense.

15 MJ [CAPT ALLRED]: Okay.

16 **CROSS EXAMINATION**

17 **Questions by the civilian trial counsel:**

18 Q [MR. MURPHY]: Special Agent [REDACTED], you've testified that
19 Mr. Hamdan provided some assistance to you in the case of Nashiri; is
20 that right?

21 A [MR. [REDACTED]]: Yes, um-hum.

1 Q [MR. MURPHY]: And as an experienced agent, you know that
2 getting assistance from suspects can be important in a case; is that
3 right?

4 A [MR. [REDACTED]]: Yes.

5 Q [MR. MURPHY]: But it's also important, isn't it, that when
6 you get assistance, that the person you're working with is fully and
7 completely truthful with you about everything; right?

8 A [MR. [REDACTED]]: Absolutely.

9 Q [MR. MURPHY]: If they're not, they're less than fully
10 cooperating, aren't they?

11 A [MR. [REDACTED]]: Yes.

12 Q [MR. MURPHY]: And they're less than fully valuable to you as
13 an agent and to someone like me as a prosecutor; isn't that right?

14 A [MR. [REDACTED]]: That's correct.

15 Q [MR. MURPHY]: In fact, they're a dangerous witness in many
16 ways if they provide what's called selective assistance; right?

17 A [MR. [REDACTED]]: Yes.

18 Q [MR. MURPHY]: And it's not true cooperation whether they do
19 that; right?

20 A [MR. [REDACTED]]: It's limited, yes.

21 [END OF PAGE]

22

23

1 Q [MR. MURPHY]: And to use a phrase from--from a world you and
2 I may both be familiar with, it's not substantial assistance if you
3 hold back important information; isn't that a fact?

4 A [MR. ██████████]: Yes.

5 Q [MR. MURPHY]: I'm going to read you 11 questions and ask you,
6 based on your knowledge of Mr. Hamdan and this case generally, if you
7 know if he's answered any one of them to any Agent at any time.

8 Who gave you the SA-7 missiles?

9 Where were you taking them?

10 Did you bring in any other missiles or any other missile
11 system to Takteh-Pol before you were caught?

12 Were other al Qaeda members also delivering missiles and
13 missile systems into Takteh-Pol?

14 Where were the trigger mechanisms to the missiles?

15 Was there any established smuggling route to bring the
16 missiles to al Qaeda members?

17 What was the full meaning of the brevity codes that were
18 taken from you at the time of your capture that listed places,
19 persons, weapons, tactics, and operations of al Qaeda?

20 Was there any established escape route, after you delivered
21 the missiles?

22 Were you planning on bringing more missiles to Takteh-Pol
23 or other places after this delivery?

1 Did you know the type of aircraft that al Qaeda was
2 targeting with these missiles?

3 What was Saif Al-Adel doing with al Qaeda fighting cells in
4 and around Kandahar at the time of his capture?

5 Those are a few questions. Do you know if he's answered
6 any of them?

7 A [MR. ██████████]: To my knowledge, he hasn't answered any of
8 that. He only stated to us that at the time of his capture that he
9 was merely returning a vehicle because it was entrusted to him.

10 Q [MR. MURPHY]: Is it your understanding that he made some
11 grudging admissions at the time of his capture? Or have you--have
12 you seen his capture video?

13 A [MR. ██████████]: No, I haven't.

14 Q [MR. MURPHY]: Knowing that all of those questions are
15 unanswered, is he a real cooperator with the United States
16 government?

17 A [MR. ██████████]: Again, I would say on--in terms of the USS
18 COLE, partially, but those are definitely disturbing and----

19 Q [MR. MURPHY]: ----disturbing to you?

20 A [MR. ██████████]: ----until--until he fully cooperates on
21 those particular--or answers those particular questions, I would be
22 uncomfortable at this point----

23

1 Q [MR. MURPHY]: In fact, you've learned that he hasn't been
2 fully truthful as well as not telling everything; right?

3 A [MR. [REDACTED]]: Based on those questions, yes.

4 Q [MR. MURPHY]: In fact, you met with former Agent [REDACTED]
5 while he was here testifying? The two of you had some interaction;
6 is that correct?

7 A [MR. [REDACTED]]: That's correct.

8 Q [MR. MURPHY]: And did the two of you talk about an
9 individual, number 37, Al Bahta. Do you remember some discussion
10 about Al Bahta, and do you remember [REDACTED] telling you that he
11 denied knowing Al Bahta even though, in fact, he really does know
12 him?

13 A [MR. [REDACTED]]: I--I recall part of that conversation, but
14 not fully.

15 Q [MR. MURPHY]: And you learned at that point that he wasn't
16 truthful about that point; right?

17 A [MR. [REDACTED]]: Well, the--the thing that really made me
18 realize the withholding information was the missiles. That was the
19 one that kind of took me back, because I thought during our sessions,
20 our interview sessions, that--that he was more forthright. The only
21 thing I believed he was holding back was in the matter of bayat, but
22 most people hold back on that.

23

1 Q [MR. MURPHY]: But isn't it fair to say that he's withheld
2 substantial information that could be assistance to the United
3 States; right?

4 A [MR. [REDACTED]]: The missiles would be very substantial.

5 Q [MR. MURPHY]: And you know of at least one instance where he
6 flat-out lied?

7 A [MR. [REDACTED]]: The----

8 Q [MR. MURPHY]: Involving the identity of Al Bahta?

9 A [MR. [REDACTED]]: Again, because I'm not very familiar with
10 that individual, so--I would say that he never--I'm trying to recall
11 if that was during my interview session that he mentioned he didn't
12 know him or it was during the photo book identification where he
13 denied knowing him.

14 Q [MR. MURPHY]: Let me ask you this. Knowing what you do know
15 about Mr. Hamdan--the transportation of missiles, protection,
16 stealth, driving, moving UBL after, before, during, and after East
17 Africa, after the COLE, before during and after 9/11--if you were not
18 working in an intelligence operation here, but had your strict law
19 enforcement hat on and encountered him say, at a check block, a check
20 point, you'd see him as a suspect; right?

21 A [MR. [REDACTED]]: Yes.

22 Q [MR. MURPHY]: You would arrest him; right?

23 A [MR. [REDACTED]]: Yes.

1 Q [MR. MURPHY]: Charge him with a crime?

2 A [MR. [REDACTED]]: Yes.

3 Q [MR. MURPHY]: Or see to it that he was charged with a crime?

4 A [MR. [REDACTED]]: Yes.

5 Q [MR. MURPHY]: What crime would you see him to be charged
6 with?

7 A [MR. [REDACTED]]: Material support.

8 Q [MR. MURPHY]: That's a serious federal offense; isn't that
9 right?

10 A [MR. [REDACTED]]: That's correct.

11 Q [MR. MURPHY]: Warranted under the facts or charging as you
12 know them today; correct?

13 A [MR. [REDACTED]]: Yes.

14 CDC [MR. MURPHY]: Thank you.

15 **REDIRECT EXAMINATION**

16 **Questions by the civilian defense counsel:**

17 Q [MR. SCHNEIDER]: Let me go back for a minute to what actually
18 happened when you talked to Mr. Hamdan. To your knowledge, did any
19 other agency or bureau or anybody on behalf of the United States
20 government tell you or any of the other 32 or 33 FBI agents who
21 interviewed Mr. Hamdan, anything about missiles?

22 A [MR. [REDACTED]]: Nobody told me anything about missiles.

23

1 Q [MR. SCHNEIDER]: That was withheld from you, to the extent it
2 existed?

3 A [MR. [REDACTED]]: I'm not sure if it was intentionally
4 withheld. Again, I was--I was there based on--I needed to fill a gap
5 while Mr.--while Special Agent [REDACTED] was gone. And since it
6 involved the COLE, I was called.

7 Q [MR. SCHNEIDER]: When was the first time--you've been
8 involved in that, in an investigation about crimes, 9/11, COLE
9 bombing and U.S. embassies for some time now, haven't you?

10 A [MR. [REDACTED]]: Not the U.S. embassy. In fact, I entered
11 the Bureau in 1999, so it was after the East [sic] embassy attack.

12 Q [MR. SCHNEIDER]: I beg your pardon. So since 1999 you've
13 been involved; right?

14 A [MR. [REDACTED]]: Yes.

15 Q [MR. SCHNEIDER]: Specialist in international terrorism,
16 counterterrorism?

17 A [MR. [REDACTED]]: I primarily work counterterrorism matters,
18 yes.

19 Q [MR. SCHNEIDER]: Involved daily, or sometimes it seems like
20 more than daily, in investigating crimes of the USS COLE and 9/11;
21 right?

22 A [MR. [REDACTED]]: Yes.

23

1 Q [MR. SCHNEIDER]: When was the first time, the very first
2 time, that anyone on behalf of the United States government told you
3 anything, or, to your knowledge, told any of your colleagues anything
4 about missiles?

5 A [MR. [REDACTED]]: That would be July of this year.

6 Q [MR. SCHNEIDER]: In the last 24 days?

7 A [MR. [REDACTED]]: Yes, but I--just to give an explanation in
8 terms of while I worked on the USS COLE investigation for several
9 months, my field office assignment was the Washington field office.
10 The USS COLE was handled by the New York field office. So I was
11 essentially on loan as needed, as they would need a native Arabic
12 speaker from time to time, while they had limited numbers.

13 So after the USS COLE and then 9/11, I was kind of involved
14 in a lot of that, but I wasn't one of the real case agents on the USS
15 COLE; I just worked it extensively. So I was not really working on
16 the case file in that regards. But in terms of the missiles,
17 honestly, I only learned about them this month.

18 Q [MR. SCHNEIDER]: 1st of July? 2nd of July?

19 A [MR. [REDACTED]]: This month. I don't recall exactly when.

20 Q [MR. SCHNEIDER]: Last few questions. As an investigator in
21 June of 2002----

22 A [MR. [REDACTED]]: I'm sorry, I think--just to correct.
23 Actually, it was late June that I learned about missiles.

1 Q [MR. SCHNEIDER]: Late June. As an investigator assigned
2 responsibilities to investigate 9/11 crimes and the crimes of the USS
3 COLE, did you appreciate the information that Mr. Hamdan did give you
4 when you met him?

5 A [MR. [REDACTED]]: The information was appreciated, yes at the
6 time, absolutely.

7 Q [MR. SCHNEIDER]: When you said good-bye to him, how did he
8 behave?

9 A [MR. [REDACTED]]: He--he wished me a very safe journey. He
10 teared-up, and he gave me a hug.

11 Q [MR. SCHNEIDER]: He gave you a hug, you gave him a hug?

12 A [MR. [REDACTED]]: Yes.

13 CDC [MR. SCHNEIDER]: Thank you.

14 CTC [MR. MURPHY]: Your Honor, I do have one follow-up question,
15 if I may ask.

16 **RECROSS-EXAMINATION**

17 **Questions by the civilian trial counsel:**

18 Q [MR. MURPHY]: Were you aware that U.S. soldiers put it point
19 blank to Mr. Hamdan, "Tell us about the missiles," at the point of
20 his capture?

21 A [MR. [REDACTED]]: I was not aware of that until very recently.

22 CTC [MR. MURPHY]: I have nothing further, Your Honor.

23 CDC [MR. SCHNEIDER]: Last question.

REDIRECT EXAMINATION

Questions by the civilian trial counsel:

A [MR. ██████████]: I was not aware.

MJ [CAPT ALLRED]: Members of the court, do you have any questions for Special Agent [REDACTED]?

MJ [CAPT ALLRED]: Do you know how to use the forms and write a question if you have one? Okay. Every one is still awake over there.

CTC [MR. MURPHY]: The government can, Your Honor, and would advise that his plan is to depart the island.

WIT [MR. ██████████]: Thank you, Your Honor.

MJ [CAPT ALLRED]: Okay. It's been an hour. Why don't we take a recess and come back here at quarter--in 15 minutes.

1 [The military commission was called to order at 1523, 24 July 2008.]
2 [All parties who were present when the Commission recessed were once
3 again present.]

4 MJ [CAPT ALLRED]: The Court's called to order.

5 Trial counsel?

6 CTC [MR. MURPHY]: Your Honor, the government would call a
7 witness who is identified as Number 1.

8 MJ [CAPT ALLRED]: Bailiff, would you ask Witness Number 1 to
9 enter the courtroom, please [did as directed].

10 [The witness entered the courtroom.]

11 CTC [MR. MURPHY]: Witness Number 1, if you could approach the
12 witness stand and face me to be sworn.

13 WITNESS 1, was called as a witness for the prosecution, was sworn,
14 and testified as follows:

15 DIRECT EXAMINATION

16 Questions by the civilian trial counsel:

17 Q [MR. MURPHY]: Please be seated [did as directed]. And you
18 are to be referred to as Number 1; is that correct?

19 A [WIT 1]: Yes, sir.

20 Q [MR. MURPHY]: How were--how were you employed in May 2002?

21 A [WIT 1]: As a Special Agent with the FBI.

1 Q [MR. MURPHY]: Tell us a little bit about your law enforcement
2 background, including any special law enforcement training that
3 you've received?

4 A [WIT 1]: Well, I was a prosecutor before joining the FBI.
5 Since joining the FBI, I've attended the FBI Academy and a broad
6 variety of follow-on training courses in investigative techniques.

7 Q [MR. MURPHY]: Did the FBI assign you to interview Mr. Hamdan?

8 A [WIT 1]: Yes.

9 Q [MR. MURPHY]: I'd like you to look around the courtroom
10 today, see if you recognize that person that you interviewed and
11 identify him by pointing to him and mentioning an article of clothing
12 he's wearing.

13 A [WIT 1]: He's **[pointing to the accused]** seated at the center
14 of the defense table wearing a tan jacket.

15 CTC [MR. MURPHY]: Your Honor, may the record reflect that the
16 witness has properly identified the accused?

17 MJ [CAPT ALLRED]: It may.

18 Q [MR. MURPHY]: During what time period did you interview
19 Mr. Hamdan?

20 A [WIT 1]: I interviewed him in the latter part of May 2002 and
21 then later that summer, July/August timeframe.

22 Q [MR. S MURPHY]: Where did you interview him?

23 A [WIT 1]: In Camp Delta, Naval Station in Guantanamo Bay.

1 Q [MR. MURPHY]: Tell us how you were able to understand what
2 was said during the interviews?

3 A [WIT 1]: Well, the things that Mr. Hamdan said were
4 translated into English by the translator.

5 Q [MR. MURPHY]: Did you prepare 302s, FBI Form 302s that
6 summarized these interviews?

7 A [WIT 1]: Yes, I did.

8 Q [MR. MURPHY]: During the interviews, was Mr. Hamdan
9 restrained in any manner?

10 A [WIT 1]: Yes, he was.

11 Q [MR. MURPHY]: Tell us about the restraint?

12 A [WIT 1]: He was wearing a belt chain--a belly chain, excuse
13 me, belly chain, which was then chained to a ring in the floor, but
14 it was--it had a length comfortable enough for him to be--you know,
15 sit upright, to move around. And his hands were free. He was not
16 handcuffed.

17 Q [MR. MURPHY]: What were the seating arrangements in your
18 interview rooms?

19 A [WIT 1]: It would be representatives of the other--other
20 government agency, translator, my CITF partner, myself on one side of
21 a five to six-foot table, and Mr. Hamdan seated at the other side.

22

23

1 Q [MR. MURPHY]: How close were you and the others to him during
2 the interviews?

3 A [WIT 1]: Approximately four feet.

4 Q [MR. MURPHY]: What was the tone of the interviews?

5 A [WIT 1]: The tones were--the tone of the interviews was
6 largely civil, at times amiable.

7 Q [MR. MURPHY]: And at any time did you or anyone else yell at
8 Mr. Hamdan or act in any manner you would consider threatening?

9 A [WIT 1]: No.

10 Q [MR. MURPHY]: Did you permit him to eat and drink during the
11 course of the interviews?

12 A [WIT 1]: Yes.

13 Q [MR. MURPHY]: Did you provide him with any rights warnings,
14 such as Article 31 rights warnings, or Miranda warnings?

15 A [WIT 1]: No, I did not.

16 Q [MR. MURPHY]: And why was that?

17 A [WIT 1]: Well, when I arrived at Guantanamo Bay for the first
18 time, there was a briefing, and during this briefing we were all
19 informed that we were not to advise any rights.

20 Q [MR. MURPHY]: In May of 2002, did you show the accused a
21 certain document?

22 A [WIT 1]: Yes, I did.

23

1 CTC [MR. MURPHY]: Your Honor, this has previously been
2 identified but not admitted, and marked as Government Exhibit 59 for
3 identification. I would ask that it be pulled up at this time.

4 MJ [CAPT ALLRED]: Okay. You can show that to the witness.

5 Q [MR. MURPHY]: All right.

6 Do you recognize that? Is it on your screen?

7 A [WIT 1]: Yes, it is.

8 Q [MR. MURPHY]: Do you recognize it?

9 A [WIT 1]: I do.

10 Q [MR. MURPHY]: What is it?

11 MJ [CAPT ALLRED]: Can you see this at the defense table?

12 CDC [MR. SWIFT]: Yes, we can.

13 MJ [CAPT ALLRED]: Very good.

14 Q [MR. MURPHY]: What is it?

15 A [WIT 1]: This is a piece of a--a photocopy of a piece of
16 pocket litter that was taken from Mr. Hamdan.

17 CTC [MR. MURPHY]: All right. Your Honor, I would offer this
18 exhibit at this time.

19 MJ [CAPT ALLRED]: Any objection from the defense?

20 CDC [MR. SWIFT]: Yes, Your Honor. I'd actually like to ask a
21 few questions regarding the foundation for this.

22 MJ [CAPT ALLRED]: Why don't we let counsel lay his foundation
23 before we hear your objection?

1 CTC [MR. MURPHY]: Right.

2 Q [MR. MURPHY]: Oh--you recognize this exhibit; is that
3 correct?

4 A [WIT 1]: Yes.

5 Q [MR. MURPHY]: And did you show it to the accused?

6 A [WIT 1]: Yes, we did.

7 Q [MR. MURPHY]: Did he recognize it?

8 A [WIT 1]: Yes.

9 Q [MR. MURPHY]: And did he tell you where it came from?

10 A [WIT 1]: Not in so many words, but the way the question would
11 have been posed to him would have been, "I'm showing you a piece of
12 paper, what can you tell me about this".

13 Q [MR. MURPHY]: Did he acknowledge seeing it?

14 A [WIT 1]: Yes. Oh, absolutely.

15 Q [MR. MURPHY]: And did he indicate to you that it was on his
16 person or within his possession at the time of his capture?

17 A [WIT 1]: Yes.

18 Q [MR. MURPHY]: Did he discuss this note with you?

19 A [WIT 1]: Yes.

20 Q [MR. MURPHY]: And can you provide the information and
21 admissions that he made regarding this during your interview?

22 A [WIT 1]: Yes.

23

1 CTC [MR. MURPHY]: Your Honor, I would offer that at this time
2 as Prosecution Exhibit 59.

3 CDC [MR. SWIFT]: Without objection.

4 MJ [CAPT ALLRED]: Very well. Without objection, Prosecution
5 Exhibit 59----

6 CTC [MR. MURPHY]: Your Honor, I would ask----

7 MJ [CAPT ALLRED]: ----or 53?

8 CTC [MR. MURPHY]: I have it marked as previously identified as
9 59. It was shown to----

10 MJ [CAPT ALLRED]: Well, let's ask the court reporter.

11 59. 59.

12 CTC [MR. MURPHY]: It was previously shown to Agent [REDACTED], or
13 former Agent [REDACTED], the other day.

14 MJ [CAPT ALLRED]: Maybe I should have put my glasses on; it
15 would have said 59 all along.

16 CTC [MR. MURPHY]: All right. Your Honor, I would ask that it
17 be published.

18 MJ [CAPT ALLRED]: Okay. It may.

19 Q [MR. MURPHY]: There's actually another part to it that I--I
20 should address. You showed this part to the accused; is that
21 correct?

22 A [WIT 1]: Yes. I showed him both parts.

23

1 Q [MR. MURPHY]: There's a second part that is--what would you
2 refer to that second part as?

3 A [WIT 1]: The English translation.

4 CTC [MR. MURPHY]: All right. Your Honor, I don't know if
5 there's an objection. In fact, the defense has had it. I'm happy to
6 show it first to the court and then to the witness.

7 MJ [CAPT ALLRED]: All right.

8 CDC [MR. SWIFT]: No objection to the English translation.

9 CTC [MR. MURPHY]: Since this is separate from what was offered
10 by Mr. [REDACTED], I'd ask that we part the next two pages as 59a and
11 would offer it. It's the rough translation.

12 MJ [CAPT ALLRED]: No objection to the translation?

13 CDC [MR. SWIFT]: That's correct, Your Honor.

14 MJ [CAPT ALLRED]: Very well. That's 59a is admitted into
15 evidence.

16 Q [MR. MURPHY]: All right. And that will consist of the next
17 two pages. And if we could display both of those to the witness.

18 That's the second page; is that right? And the third page?
19 Do you recognize that as the rough translation?

20 A [WIT 1]: Yes.

21 Q [MR. MURPHY]: You had all of that with you when you
22 interviewed the accused?

23 A [WIT 1]: Yes.

1 Q [MR. MURPHY]: Is that right?

2 A [WIT 1]: Yes.

3 Q [MR. MURPHY]: He indicated it was with him at the time of his
4 capture; right?

5 A [WIT 1]: Yes.

6 Q [MR. MURPHY]: It was translated in an earlier session the
7 other day. What, if anything, did Mr. Hamdan tell you about this
8 document?

9 A [WIT 1]: Well, basically, when I asked him about the
10 document, he said this is the only time in which a document such as
11 this was addressed directly to him. He did tell me that on other
12 occasions he would deliver such--this was basically a request from
13 the field, he would deliver such requests, but this was the first
14 time that one was actually addressed to him.

15 Q [MR. MURPHY]: You understand the information in the note; is
16 that correct?

17 A [WIT 1]: Yes.

18 Q [MR. MURPHY]: What's your understanding of the information in
19 the note?

20 A [WIT 1]: This is a request for machine gun ammunition and a
21 military compass--or a lens eye compass.

22

23

1 Q [MR. MURPHY]: There's a particular reference in the field
2 rough translation called PIKA. Do you notice that? Do you
3 understand what PIKA is?

4 A [WIT 1]: Yes, it's a type of machine gun.

5 Q [MR. MURPHY]: Okay. And Mr. Hamdan acknowledged that this
6 was addressed specifically to him?

7 A [WIT 1]: Yes.

8 Q [MR. MURPHY]: Did you talk to Mr. Hamdan about passing on
9 information to a particular--let me ask you an earlier question
10 first.

11 What, if anything, did Mr. Hamdan tell you about passing on
12 information that Mr. Hamdan considered, quote, "from the field"?

13 A [WIT 1]: That one of his jobs was to deliver such requests to
14 a certain individual at a--two different locations.

15 Q [MR. MURPHY]: What did you understand that to mean?

16 A [WIT 1]: These were requests from the field for logistical
17 support.

18 Q [MR. MURPHY]: And what kind of logistical support did you
19 understand that to mean?

20 A [WIT 1]: I would say weapons and ammunition.

21 Q [MR. MURPHY]: Did Mr. Hamdan talk to you about passing this
22 information on to a particular person?

23 A [WIT 1]: Yes.

1 Q [MR. MURPHY]: What did he say about that?

2 A [WIT 1]: He said he would pass these requests on to an
3 individual named Abu Khalid.

4 Q [MR. MURPHY]: And did he pass this information at a
5 particular location?

6 A [WIT 1]: Yes, at--in Kandahar, and as well as at a location
7 house on the outskirts of Kandahar, which he, in a later interview
8 identified as a place called--which he called a military squad.

9 Q [MR. MURPHY]: Did Mr. Hamdan tell you that Abu Khalid was
10 known to him, Mr. Hamdan, to belong to a particular organization?

11 A [WIT 1]: Yes.

12 Q [MR. MURPHY]: Did the accused describe a role performed by
13 Abu Khalid to you?

14 A [WIT 1]: Yes. The way he described Abu Khalid's duties, I
15 would identify him as a logistics officer.

16 Q [MR. MURPHY]: Did Mr. Hamdan tell you who he believed Abu
17 Khalid worked for?

18 A [WIT 1]: Yes.

19 Q [MR. MURPHY]: What did he say?

20 A [WIT 1]: He said he believed Abu Khalid worked for Abu Hafs
21 Al-Masri.

22

23

1 Q [MR. MURPHY]: What, if anything, did the accused tell you
2 about weapons under the control of Abu Khalid?

3 A [WIT 1]: He told me that at this place called the military
4 squad, there were caches of weapons under Abu Khalid's control, and
5 that at least on one occasion, he actually saw Abu Khalid physically
6 hand a Kalashnikov rifle to another individual.

7 Q [MR. MURPHY]: Did the accused use a name for the location
8 where these weapons were located?

9 A [WIT 1]: Yes. He called it a military squad.

10 Q [MR. MURPHY]: Military squad?

11 A [WIT 1]: Yes.

12 Q [MR. MURPHY]: Did he describe that location?

13 A [WIT 1]: He did.

14 Q [MR. MURPHY]: What did he say?

15 A [WIT 1]: He said it was a large compound, approximately three
16 kilometers, in outskirts of Kandahar. He initially gave the
17 direction from--actually used a point of reference of a place called
18 Omar's Hospital, which is in the outskirts of Kandahar. He
19 identified this place as being located approximately three kilometers
20 north/northwest from Omar's Hospital.

21 He described the--the compound as old--a Russian-built old
22 compound that was surrounded by barbed wire and a mine field. He
23 said there were approximately 12 buildings in the compound, some of

1 which there was as tall as four stories. There was a tank repair
2 shop. There were weapons caches there and he said there were
3 thousands of people who worked there.

4 Q [MR. MURPHY]: Did you talk to the accused about who he said
5 was with Usama Bin Laden immediately before and after 9/11?

6 A [WIT 1]: Yes.

7 Q [MR. MURPHY]: What did he say?

8 A [WIT 1]: He said--this was during a presentation of a photo
9 array to Mr. Hamdan. He identified an individual he called Anas, who
10 was with Usama Bin Laden both prior to and after 9/11.

11 Q [MR. MURPHY]: Do you know based on your investigation who
12 this Anas is?

13 A [WIT 1]: Yes. Hamza----

14 Q [MR. MURPHY]: ----Who is that?

15 A [WIT 1]: Hamza Ismail.

16 Q [MR. MURPHY]: Did the accused report to you how long Anas,
17 Hamza Ismail--am I pronouncing that correctly?

18 A [WIT 1]: You're asking the wrong person.

19 Q [MR. MURPHY]: Was with Usama Bin Laden after the events of
20 9/11?

21 A [WIT 1]: He was with Usama Bin Laden up until Mr. Hamdan's
22 capture, which would have been late November '02--'01, excuse me.

23

1 Q [MR. MURPHY]: Shortly after 9/11, did the accused tell you he
2 saw something of significance in Usama Bin Laden's motorcade?

3 A [WIT 1]: Yes. He saw----

4 Q [MR. MURPHY]: ----What did he say?

5 A [WIT 1]: He saw in a truck a Hi--he described it as kind of a
6 Hilux pickup truck, he saw a--approximately four Russian-made gas
7 masks.

8 Q [MR. MURPHY]: Did you ask the accused details about his
9 capture?

10 A [WIT 1]: Yes, I did.

11 Q [MR. MURPHY]: What did he say about his capture?

12 A [WIT 1]: He gave me basically a thumbnail sketch of the
13 chronology of events that occurred that day.

14 Q [MR. MURPHY]: What did he say to you about it?

15 A [WIT 1]: He said on that day he went to Abu Yassir's house.
16 Abu Yassir was another Bin Laden driver/bodyguard. He knew Abu
17 Yassir had this car. He had seen it--he had seen Abu using this car,
18 Abu Yassir using this car in the past. He went over, borrowed the
19 keys, had the car, and then went and picked up his wife, Mr. Hamdan's
20 wife, as well as Abu Rahman's wife, and drove the two of them into
21 Pakistan. And upon his return from Pakistan, heading to Kandahar, he
22 was stopped at a check point that--he was captured.

23

1 Q [MR. MURPHY]: Did he bring up the individual of the name of
2 Said Boujaadia?

3 A [WIT 1]: He did.

4 Q [MR. MURPHY]: What did he say about this person?

5 A [WIT 1]: He said that after his capture, he met Said
6 Boujaadia; Said Boujaadia told him that he, Said Boujaadia, was
7 behind Mr. Hamdan at this check point when they were all apprehended.
8 And that Boujaadia told him also that the people in the car with him,
9 Boujaadia, were killed. Two other people in the car were killed.

10 Q [MR. MURPHY]: And that Boujaadia was behind him, behind
11 Hamdan's vehicle----

12 A [WIT 1]: That's correct.

13 Q [MR. MURPHY]: ----at the point of capture?

14 Did the accused ever admit to you at any time that he was
15 transporting missiles in his car at the point of his capture?

16 A [WIT 1]: No, he did not.

17 Q [MR. MURPHY]: Was he completely candid with you during the
18 course of your interviews?

19 A [WIT 1]: I would say no.

20 Q [MR. MURPHY]: Why do you say that?

21 A [WIT 1]: Well, you had to extract--well, not to extract, but
22 he would answer questions but they had to be pointed, direct
23 questions. In other words, if you asked him an open-ended question,

1 is there anything else you can tell me about training camps or
2 military arsenals that you know of, he would say no. And then I
3 showed him a map, he would say, well, yeah, that one. Well, why
4 didn't you tell me about that one? You didn't ask me. You know
5 those kinds of things.

6 In addition, I think he left out a good accounting of why
7 he left Kandahar and went into Pakistan, return to Pakistan. The
8 story was--was very implausible from my end of it.

9 Q [MR. MURPHY]: All right. Did a map become significant in
10 your interviews with the accused?

11 A [WIT 1]: Yes.

12 Q [MR. MURPHY]: Tell us about that.

13 A [WIT 1]: Well, I'd say a day or two--two to four days after
14 the interview in which Mr. Hamdan described this military squad, the
15 information was passed through different channels and some members of
16 another government agency came into our interviews with a map and
17 were pointed out, and Mr. Hamdan was able to identify on the map
18 where this military squad that he had described in an interview a
19 couple days earlier, where it was actually located. And it turns out
20 it was actually northeast of Omar's Hospital as opposed to northwest.

21 [END OF PAGE]

22

23

1 Q [MR. MURPHY]: All right. And do you know what happened to
2 that site?

3 A [WIT 1]: Not definitely, but there was some conjecture that
4 it was--it was--hit by a military air strike.

5 CTC [MR. MURPHY]: All right. If I may have a moment
6 **[Discussion at trial counsel table]**.

7 Q [MR. MURPHY]: Your questioning of the accused was in a fairly
8 unique environment; is that correct?

9 A [WIT 1]: Yes.

10 Q [MR. MURPHY]: You also operate in a strictly law enforcement
11 environment at times; is that right?

12 A [WIT 1]: Yes.

13 Q [MR. MURPHY]: You learned facts associated with Mr. Hamdan,
14 that he was transporting missiles, transporting weapons, as reflected
15 in, what we're calling the PIKA note, it was just introduced to you
16 as Exhibit 59, and was providing armed protective services, each step
17 of the way for Usama Bin Laden, before and after the East Africa
18 embassy bombing, after the COLE, before and after 9/11. How would
19 you view him if you were dealing with him in your traditional law
20 enforcement?

21 A [WIT 1]: I would view him as a criminal suspect.

22

23

1 Q [MR. MURPHY]: Why is that?

2 A [WIT 1]: Because of his role in this, he was obviously
3 involved.

4 Q [MR. MURPHY]: Would you arrest him----

5 A [WIT 1]: Yes.

6 Q [MR. MURPHY]: ----if you had the opportunity to and were not
7 in this unique environment?

8 A [WIT 1]: Yes, I would.

9 Q [MR. MURPHY]: Would you seek to have him charged with an
10 offense?

11 A [WIT 1]: Yes, I would.

12 Q [MR. MURPHY]: What kind of offense would you look for?

13 A [WIT 1]: Well, given the facts you just gave me, terrorism-
14 related charges.

15 Q [MR. MURPHY]: Would you view those as serious charges?

16 A [WIT 1]: Yes, extremely so.

17 CTC [MR. MURPHY]: Your Honor, I tender the witness.

18 MJ [CAPT ALLRED]: Very good.

19 **CROSS-EXAMINATION**

20 **Questions by the civilian defense counsel:**

21 Q [MR. SWIFT]: Good afternoon. We have met once before. My
22 name is Charlie Swift, again.

23 A [WIT 1]: Yes, sir. Good afternoon.

1 Q [MR. SWIFT]: Are you familiar with the history of the Afghan-
2 -the war in Afghanistan between the Taliban and the Northern
3 Alliance?

4 A [WIT 1]: I would say very superficially.

5 Q [MR. SWIFT]: Very superficially. Did you know that there was
6 an ongoing civil war in Afghanistan----

7 A [WIT 1]: Yes.

8 Q [MR. SWIFT]: ----before September 11th?

9 A [WIT 1]: Yes.

10 Q [MR. SWIFT]: Did you know where battles were being fought?

11 A [WIT 1]: No, I couldn't specify battlefields.

12 Q [MR. SWIFT]: Did you know that Jalalabad was the jumping off
13 point for the front between the Northern Alliance and the Taliban and
14 Arab forces that were fighting?

15 A [WIT 1]: No, sir.

16 Q [MR. SWIFT]: Did you know that Usama Bin Laden encouraged
17 people to go to the front and fight in the civil war?

18 A [WIT 1]: Yes, I did know that.

19 Q [MR. SWIFT]: Did you know that that civil war had been going
20 on since 1998?

21 A [WIT 1]: I don't know the exact date, but I know it was a--a
22 good decade or so after the Soviet occupation.

23

1 Q [MR. SWIFT]: And it was conventional armed conflict?

2 A [WIT 1]: Yes.

3 Q [MR. SWIFT]: Not something we deemed to be terrorism?

4 A [WIT 1]: No.

5 Q [MR. SWIFT]: Now, the letter that you were shown, was it
6 dated?

7 A [WIT 1]: I don't recall seeing a date on it, no.

8 Q [MR. SWIFT]: Did you ask Mr. Hamdan when he got it?

9 A [WIT 1]: No, I didn't.

10 Q [MR. SWIFT]: Now, certainly the supply of missiles or machine
11 gun belts to a traditional armed conflict wouldn't be terrorism,
12 would it?

13 A [WIT 1]: No----

14 CTC [MR. MURPHY]: Objection, Your Honor. It's beyond the
15 competency of this witness to testify as to legal issues. He can
16 testify as to factual matters.

17 MJ [CAPT ALLRED]: He just answered the question, so he appears
18 to have known the answer. Overruled.

19 Q [MR. SWIFT]: And it would be important to know the date that
20 these weapon systems were being delivered, wouldn't it?

21 A [WIT 1]: Yes.

22

23

1 Q [MR. SWIFT]: A question that probably should have been asked
2 about the letter; right?

3 A [WIT 1]: Yes.

4 Q [MR. SWIFT]: Now, with regards to Mr. Hamdan telling you
5 about missiles in the car, you mentioned that there was another
6 government agency there that gave you a map to help you locate one of
7 the facilities; is that correct?

8 A [WIT 1]: No. What--you're combining two different incidents.
9 The missiles in the car had nothing to do with the identification of
10 the other facility.

11 Q [MR. SWIFT]: I was pointing you to a place in time so that we
12 could start.

13 A [WIT 1]: Okay.

14 Q [MR. SWIFT]: But let's start with you mentioned that there
15 was another government agency that told you about--or provided you a
16 map to help Mr. Hamdan locate exactly where places were?

17 A [WIT 1]: Yes.

18 Q [MR. SWIFT]: And this government agency, did they tell you
19 anything about the fact that Mr. Hamdan had been captured with
20 missiles?

21 A [WIT 1]: No, they didn't tell me anything about anything.

22

23

1 Q [MR. SWIFT]: You said, you know, with Mr. Hamdan you need to
2 ask a specific question; correct?

3 A [WIT 1]: Yes.

4 Q [MR. SWIFT]: And you didn't ask him about missiles?

5 A [WIT 1]: I knew nothing about the missiles when I interviewed
6 Mr. Hamdan.

7 Q [MR. SWIFT]: When you prepared your 302s, did you put
8 everything into them that you thought was relevant and important that
9 should be in a 302, based on your interview?

10 A [WIT 1]: Yes.

11 Q [MR. SWIFT]: It's a summary; correct?

12 A [WIT 1]: Correct.

13 Q [MR. SWIFT]: But if it's important, you put it into the 302;
14 right?

15 A [WIT 1]: Yes.

16 Q [MR. SWIFT]: Do you recall Mr. Hamdan telling you about a
17 funeral?

18 A [WIT 1]: I recall seeing that in my notes.

19 Q [MR. SWIFT]: And at that funeral, people spoke against 9/11,
20 said that it was wrong to kill innocent people; do you recall that?

21 A [WIT 1]: Again, I'd have to--I'd have to----

22

23

1 Q [MR. SWIFT]: Would you like to look at them? I can bring
2 them up.

3 A [WIT 1]: Please.

4 Q [MR. SWIFT]: **[Handing a copy of notes to the witness.]** Does
5 that help refresh your recollection of your notes?

6 A [WIT 1]: **[Examining notes.]** Yes.

7 Q [MR. SWIFT]: Okay. If I can have a trade **[taking back notes**
8 **from the witness]**.

9 Does that, the fact that of that funeral, didn't make it
10 into your 302, did it.

11 A [WIT 1]: No, it did not.

12 Q [MR. SWIFT]: The fact that Mr. Hamdan, at least was in the
13 presence of some people who disagreed with 9/11 wasn't relevant, was
14 it?

15 A [WIT 1]: Not at--no, evidently it wasn't relevant to me
16 because I had no other----

17 CDC [MR. SWIFT]: Thank you.

18 A [WIT 1]: ----he wasn't able to me information about the
19 funeral.

20 **[END OF PAGE]**

21

22

23

REDIRECT EXAMINATION

Questions by the civilian trial counsel:

Q [MR. MURPHY]: That notation in your rough notes, Agent, that he heard people not supporting the 9/11 attack. Is there any evidence that because he heard that, he walked away from al Qaeda?

A [WIT 1]: No.

CTC [MR. MURPHY]: Thank you.

MJ [CAPT ALLRED]: Mr. Swift, the final word is yours?

CDC [MR. SWIFT]: I have no further questions based on that one question.

MJ [CAPT ALLRED]: Can we excuse this witness, then?

Apparently--oh, I'm sorry. Members of the court, do you have any questions for Witness Number 1?

MEMBERS: [No response.]

MJ [CAPT ALLRED]: Apparently not.

Thank you, Witness Number 1 for service. You may withdraw from the courtroom.

CTC [MR. MURPHY]: Your Honor, the government will call

, and we'll ask Number 1 if he could send him down.

[The witness was excused and withdrew from the courtroom.]

CTC [MR. MURPHY]: Your Honor, I just alert the Court that we have a few classified exhibits with this witness and we'll ask to use the same procedure as before.

1 MJ [CAPT ALLRED]: Are you going to use the electronic----

2 CTC [MR. MURPHY]: We have it electronically in the electronic
3 system with the hard copies for the defense.

4 MJ [CAPT ALLRED]: Okay.

5 **[Courtroom technician enters the courtroom.]**

6 MJ [CAPT ALLRED]: Would you trust the bailiff to unplug your
7 toy here?

8 COURTROOM TECH: He's--he's a good man.

9 MJ [CAPT ALLRED]: He's an unplugging man **[the witness entered**
10 **the courtroom].**

11 The witness has already testified in the proceedings and
12 been sworn. Please have a seat **[did as directed].**

13 WIT [MR. [REDACTED]]: Thank you.

14 MJ [CAPT ALLRED]: Please consider yourself to be still under
15 oath.

16 WIT [MR. [REDACTED]]: Thank you.

17 **[REDACTED], Civilian, was recalled as a witness for the**
18 **prosecution, was previously sworn, and testified follows:**

19 **DIRECT EXAMINATION**

20 **Questions by the civilian trial counsel:**

21 Q [MR. MURPHY]: May I have you just state your full name and
22 spell your last name for the record.

23 A [MR. [REDACTED]]: [REDACTED]

1 Q [MR. MURPHY]: During August of 2002, who were you employed by
2 and what were your duties?

3 A [MR. [REDACTED]]: I was employed by the Federal Bureau of
4 Investigation as a Special Agent working counterterrorism
5 investigations.

6 Q [MR. MURPHY]: Can you describe for the commission your formal
7 education and your law enforcement training?

8 A [MR. [REDACTED]]: Sure. I received a BS in Accounting and an
9 MBA in Finance and Economics. I'm a licensed certified public
10 accountant, and attended the FBI's new agent training in Quantico,
11 Virginia. And since then I've received extensive training in
12 investigative techniques, interview methods, methodology and trends
13 in counterterrorism and various investigations.

14 Q [MR. MURPHY]: Do you have any specialized law enforcement
15 training?

16 A [MR. [REDACTED]]: I would say yes. I received, you know,
17 specialized training in counterterrorism specifically on interview
18 techniques, proper handling of investigations, training on world
19 affairs and matters.

20 Q [MR. MURPHY]: And do you speak more than one language?

21 A [MR. [REDACTED]]: No.

1 Q [MR. MURPHY]: Did the Federal Bureau of Investigation give
2 you an assignment to interview the accused, Mr. Hamdan, also known as
3 Saqr al-Jadawi?

4 A [MR. [REDACTED]]: Yes.

5 Q [MR. MURPHY]: When did you get that assignment?

6 A [MR. [REDACTED]]: I received that assignment upon my arrival
7 here at Guantanamo Bay.

8 Q [MR. MURPHY]: And did you, in fact, interview him with other
9 persons?

10 A [MR. [REDACTED]]: Yes.

11 Q [MR. MURPHY]: I would ask you to look around the courtroom to
12 see if you recognize him; and, if you can, point to an article of
13 clothing he's wearing and point to him.

14 A [MR. [REDACTED]]: Sure. Mr. Hamdan **[pointing to the accused]** is
15 seated wearing the head scarf and tan jacket.

16 CTC [MR. MURPHY]: May the record reflect the witness has
17 properly identified the accused.

18 Q [MR. MURPHY]: During what time period did you interview the
19 accused?

20 A [MR. [REDACTED]]: I interviewed Mr. Hamdan in August 2002.

21 Q [MR. MURPHY]: And where did you interview him?

22 A [MR. [REDACTED]]: Camp Delta, Guantanamo Bay, Cuba.

23

1 Q [MR. MURPHY]: How many times did you interview him?

2 A [MR. [REDACTED]]: Interviewed him twice and a third time with an
3 attempt, so I would say two interviews and one attempt.

4 Q [MR. MURPHY]: Can you describe in some detail where these
5 interviews took place?

6 A [MR. [REDACTED]]: These interviews, again, took place in Camp
7 Delta. There were interview rooms that were set--set up inside the
8 area inside the prison. They were kind of like a modular, mobile
9 home with interview rooms, I think there were six total. In the room
10 there was a table, chairs, air conditioning, and a two-way glass
11 where if someone wanted to observe the interview, they could.

12 Q [MR. MURPHY]: Were there other people in the rooms with you?

13 A [MR. [REDACTED]]: Yes.

14 Q [MR. MURPHY]: And who were they?

15 A [MR. [REDACTED]]: I had a linguist and another Agent from the
16 New York.

17 Q [MR. MURPHY]: The interviews were conducted in Arabic?

18 A [MR. [REDACTED]]: Yes.

19 Q [MR. MURPHY]: And how was the translation process conducted?
20 Can you explain that briefly to us?

21 A [MR. [REDACTED]]: Sure. I, along with the other Agent, would
22 meet with the linguist before we would interview not just Mr. Hamdan
23 but anyone. Go over our questions so we kind of were all on the same

1 page, and then I would ask the questions to the linguist, who in turn
2 would ask the question to Mr. Hamdan. Mr. Hamdan would then respond
3 to the linguist, and then he, in turn, would respond to me.

4 I made it a point to make the dialogue short between
5 Mr. Hamdan and the linguist so that I could stay current with my
6 notes and if I had questions I could then follow up right then and
7 there.

8 Q [MR. MURPHY]: Did he show a willingness to talk to you?

9 A [MR. [REDACTED]]: Yes.

10 Q [MR. MURPHY]: Tell us a little bit about the tone of the
11 interviews?

12 A [MR. [REDACTED]]: I would say it was cordial. Mr. Hamdan
13 answered the questions asked of him. I don't think he went out of
14 his way to provide more information, but I would say cordial and was
15 willing to answer questions.

16 Q [MR. MURPHY]: Did you give him any rights warnings?

17 A [MR. [REDACTED]]: No.

18 Q [MR. MURPHY]: Why was that?

19 A [MR. [REDACTED]]: Upon my arrival here at Guantanamo Bay, the--I
20 was--not just me but others were instructed not to afford Mr. Hamdan
21 advice of rights.

22

23

1 Q [MR. MURPHY]: Was it clear to you that he was free to speak
2 to you or not to speak to you as he saw fit?

3 A [MR. [REDACTED]]: Yes. And I think a good example of that would
4 be our third attempt to interview Mr. Hamdan. He refused, and we
5 terminated the interview. So if he was unwilling to speak, there
6 were other people that I would end up talking to, so I would
7 terminate the interview and go on to someone else.

8 Q [MR. MURPHY]: Did you learn from Mr. Hamdan or anyone else,
9 for that matter, was there a complaint ever made that he was ever
10 mistreated or abused by anyone?

11 A [MR. [REDACTED]]: No.

12 Q [MR. MURPHY]: Was he restrained during the interviews with
13 you?

14 A [MR. [REDACTED]]: Yes.

15 Q [MR. MURPHY]: Please explain those restraints?

16 A [MR. [REDACTED]]: Mr. Hamdan would sit in a chair across from
17 us. And his--I--yeah, his feet were shackled to a--like a bolt, an
18 eyelet on the floor. So his feet were--or ankles were hand--were
19 handcuffed, but his hands were not.

20 Q [MR. MURPHY]: All right. Did you prepare reports that
21 summarized your interview with him?

22 A [MR. [REDACTED]]: Yes.

23

1 Q [MR. MURPHY]: And have you re--have you reviewed these
2 reports in preparation for your testimony today?

3 A [MR. [REDACTED]]: Yes, I have.

4 Q [MR. MURPHY]: All right. Let's get into the substance of
5 your interviews. Did you talk to him about his travels to
6 Afghanistan and his efforts to further go on to Tajikistan?

7 A [MR. [REDACTED]]: Yes.

8 Q [MR. MURPHY]: What did he say about that?

9 A [MR. [REDACTED]]: Mr. Hamdan stated that he, along with others,
10 had attempted to travel to Tajikistan via Afghanistan to engage the
11 Russians. He was unable to cross the border, he said due to weather,
12 and remained in Afghanistan.

13 Q [MR. MURPHY]: When he failed to get into Tajikistan, did he
14 tell you what he did next?

15 A [MR. [REDACTED]]: Yes. He returned to Kabul, where he met a
16 gentleman by the name of Mohammed Salah.

17 Q [MR. MURPHY]: All right. Did the accused talk to you about
18 his early efforts to contact Usama Bin Laden?

19 A [MR. [REDACTED]]: I'm sorry, could you repeat the question?

20 Q [MR. MURPHY]: Did the accused talk to you about his early
21 efforts to contact Usama Bin Laden?

22 A [MR. [REDACTED]]: Yes.

23

1 Q [MR. MURPHY]: And what did he say?

2 A [MR. [REDACTED]]: He said that once he was in Kabul, he was
3 introduced to Usama Bin Laden via Mohammed Salah, and he ultimately
4 became his driver.

5 Q [MR. MURPHY]: And did he tell you about that specific
6 assignment from Usama Bin Laden?

7 A [MR. [REDACTED]]: Yes, he told me that.

8 Q [MR. MURPHY]: Did the accused offer an opinion to you as to
9 why he received this assignment, why he in particular received this
10 assignment from Usama Bin Laden?

11 A [MR. [REDACTED]]: Yes. Mr. Hamdan stated that he gained Usama
12 Bin Laden's trust, and due to that trust he was given the assignment
13 of being his driver.

14 Q [MR. MURPHY]: What, if anything, did he tell you about bayat?

15 A [MR. [REDACTED]]: I asked Mr. Hamdan had he pledged bayat to
16 Usama Bin Laden, and he stated no.

17 Q [MR. MURPHY]: Let's talk about the bodyguards. Did you ask
18 the accused about his living arrangements or about the living
19 arrangements for Usama Bin Laden's bodyguards?

20 A [MR. [REDACTED]]: Yes.

21 Q [MR. MURPHY]: What did he tell you?

22 A [MR. [REDACTED]]: Mr. Hamdan--this was one of our reasons to
23 interview him a third time--provided some conflicting information

1 which we wanted to get more clarification on. Mr. Hamdan stated that
2 the bodyguards at times would stay with Usama Bin Laden and other
3 times they would stay in a separate facility, so provided two, I
4 would say, conflicting answers to that question.

5 Q [MR. MURPHY]: Did the accused tell you who directed the
6 actions of the bodyguards?

7 A [MR. [REDACTED]]: Yes. Mr. Hamdan stated that Usama Bin Laden's
8 son, Uthman, would provide the actual orders that Mr.--Usama Bin
9 Laden is going to be driving somewhere, and then the bodyguards were
10 controlled by another individual.

11 Q [MR. MURPHY]: And did he give you the name of that other
12 individual?

13 A [MR. [REDACTED]]: Yes.

14 Q [MR. MURPHY]: Who was that?

15 A [MR. [REDACTED]]: Saif Al-Adel.

16 Q [MR. MURPHY]: Let's talk about his marriage. After working
17 as a driver for Usama Bin Laden for six or seven months, did he do
18 something significant in his life?

19 A [MR. [REDACTED]]: Mr. Hamdan stated that he returned to Yemen to
20 get married.

21 [END OF PAGE]

1 Q [MR. MURPHY]: At the time of the accused's marriage, did he
2 tell you specifically that he fully understood the organization that
3 was formed around Usama Bin Laden?

4 A [MR. [REDACTED]]: Yes. Mr. Hamdan stated while he was in Yemen,
5 he learned that Usama Bin Laden and al Qaeda were one and the same.

6 Q [MR. MURPHY]: What did the accused do after his marriage?

7 A [MR. [REDACTED]]: After he was married, he returned to
8 Afghanistan and resumed his responsibilities as Usama Bin Laden's
9 driver.

10 Q [MR. MURPHY]: Who would tell the accused that he had a
11 specific driving assignment?

12 A [MR. [REDACTED]]: Again, that would be Usama Bin Laden's son,
13 Uthman.

14 Q [MR. MURPHY]: Did you talk to him about motorcades----

15 A [MR. [REDACTED]]: Yes, I----

16 Q [MR. MURPHY]: ----and caravans?

17 A [MR. [REDACTED]]: Yes, I did.

18 Q [MR. MURPHY]: Did he describe the composition of the
19 motorcades that he participated in while driving Usama Bin Laden and
20 other al Qaeda members?

21 A [MR. [REDACTED]]: Yes.

22

23

1 Q [MR. MURPHY]: What did he say about it?

2 A [MR. ██████████]: Mr. Hamdan stated that UBL, or Usama Bin
3 Laden, would be transported using three to seven vehicles and upwards
4 of 10 to 40, 40 individuals.

5 Q [MR. MURPHY]: Did he comment on the frequency of Usama Bin
6 Laden's travels after 9/11?

7 A [MR. ██████████]: After 9/11, Mr. Hamdan stated Usama Bin Laden
8 moved frequently.

9 Q [MR. MURPHY]: What cities did the accused and Usama Bin Laden
10 and other al Qaeda members travel to after 9/11?

11 A [MR. ██████████]: Mr. Hamdan stated Usama Bin Laden would travel
12 between Khost, Kandahar, and Jalalabad.

13 Q [MR. MURPHY]: When Mr. Hamdan transported Usama Bin Laden to
14 Kabul, where did Usama Bin Laden stay?

15 A [MR. ██████████]: I'm sorry, in Kabul?

16 Q [MR. MURPHY]: To Kabul, right.

17 A [MR. ██████████]: Yeah. When Usama Bin Laden was in Kabul, he
18 would stay at Mohammed Salah's personal home.

19 Q [MR. MURPHY]: Did the accused tell you the neighborhood where
20 Usama Bin Laden stayed in Kabul and that it was known as a housing
21 area for particular persons?

22 A [MR. ██████████]: Mr. Hamdan stated that Mohammed Salah's home
23 was in the Wazir Akbar Khan region of Kabul, which was a known

1 neighborhood where Afghan fighters would reside.

2 Q [MR. MURPHY]: When the accused transported Usama Bin Laden to
3 Khost and Jalalabad, did he tell you Usama Bin Laden stayed?

4 A [MR. ██████████]: Yes. Mr. Hamdan stated that Usama Bin Laden
5 would stay at his own personal residences.

6 Q [MR. MURPHY]: How long did the accused act as a driver for
7 Usama Bin Laden?

8 A [MR. ██████████]: I believe Mr. Hamdan stated eight to nine
9 months total.

10 Q [MR. MURPHY]: Did he tell--did the accused tell you the time
11 period when he last saw Usama Bin Laden?

12 A [MR. ██████████]: Yes. Mr. Hamdan stated he last saw Usama Bin
13 Laden ten days I believe before--before Ramadan.

14 Q [MR. MURPHY]: Let's turn to al Farouq camp. Did the accused
15 talk to you about driving Usama Bin Laden to al Farouq?

16 A [MR. ██████████]: Yes.

17 Q [MR. MURPHY]: And did he report to you what Usama Bin Laden
18 did when he was at al Farouq?

19 A [MR. ██████████]: Mr. Hamdan stated that he did drive Usama Bin
20 Laden to the al Farouq training camp where he would talk to the
21 trainees, provide them support, and also talk about his dislike for
22 America.

1 Q [MR. MURPHY]: And did he talk to you about whether he ever
2 trained himself at al Farouq?

3 A [MR. [REDACTED]]: Mr. Hamdan stated he did not receive training
4 from the al Farouq camp. He explained that since he was a Yemeni, he
5 was very familiar with weapons growing up, so, therefore, he didn't
6 need the training.

7 Q [MR. MURPHY]: So to you he said he didn't train----

8 A [MR. [REDACTED]]: Yeah.

9 Q [MR. MURPHY]: ----at al Farouq?

10 A [MR. [REDACTED]]: Yes.

11 Q [MR. MURPHY]: Let's talk about Mes Aynak. Did the accused
12 talk to you about transporting UBL to Mes Aynak?

13 A [MR. [REDACTED]]: Yes.

14 Q [MR. MURPHY]: What is that?

15 A [MR. [REDACTED]]: Mes Aynak is another al Qaeda training camp.

16 Q [MR. MURPHY]: What did he say? What did the accused say
17 about UBL's activity at Mes Aynak?

18 A [MR. [REDACTED]]: Again, similar to the al Farouq experience,
19 Mr. Hamdan would drive Usama Bin Laden to the--to the Mes Aynak camp
20 where he would, again, encourage the trainees and talk about his
21 dislike for America.

1 Q [MR. MURPHY]: Did you talk to the accused about communication
2 methods?

3 A [MR. ██████████]: Yes.

4 Q [MR. MURPHY]: And what did he tell you about UBL's
5 communications methods?

6 A [MR. ██████████]: Usama Bin Laden favored either personal
7 transportation of information or radio. Usama Bin Laden was fearful
8 of radios and cell phones--or, excuse me, of cell phones and
9 telephones.

10 Q [MR. MURPHY]: Did you talk to him about an individual by the
11 name of Abu Hafs?

12 A [MR. ██████████]: Yes.

13 Q [MR. MURPHY]: What did he say about Abu Hafs?

14 A [MR. ██████████]: Mr. Hamdan stated that Abu Hafs was Usama Bin
15 Laden's right-hand man.

16 Q [MR. MURPHY]: That was a phrase he used to describe their
17 relationship?

18 A [MR. ██████████]: Yes.

19 Q [MR. MURPHY]: Did the accused comment on the frequency that
20 he transported Usama Bin Laden and Abu Hafs together?

21 A [MR. ██████████]: Mr. Hamdan stated he would transport both of
22 them frequently.

1 Q [MR. MURPHY]: Did the accused comment on the death and
2 funeral of Abu Hafs?

3 A [MR. [REDACTED]]: Yes. Mr. Hamdan stated that he attended Abu
4 Hafs' funeral but did not recover Mr. Abu Hafs' body.

5 Q [MR. MURPHY]: Did he give you a timeframe for this funeral?

6 A [MR. [REDACTED]]: I believe he said ten days after Ramadan,
7 2001.

8 Q [MR. MURPHY]: Did you talk to the accused about the
9 significance of this funeral of Abu Hafs?

10 A [MR. [REDACTED]]: The significance? Yeah.

11 Q [MR. MURPHY]: Did he comment to you on the significance?

12 A [MR. [REDACTED]]: Yes.

13 Q [MR. MURPHY]: What did he say?

14 A [MR. [REDACTED]]: Well, he said Abu Zubaida was also in
15 attendance at the funeral.

16 Q [MR. MURPHY]: And who is Abu Zubaida?

17 A [MR. [REDACTED]]: Abu Zubaida, again, is another high-ranking
18 member of the al Qaeda network.

19 Q [MR. MURPHY]: And he reported to you, that is Hamdan reported
20 to you that he saw Abu Zubaida at the funeral?

21 A [MR. [REDACTED]]: Yes.

22

23

1 Q [MR. MURPHY]: Let's talk about the capture. Did the accused
2 talk to you about his capture?

3 A [MR. [REDACTED]]: Yes.

4 Q [MR. MURPHY]: Did he tell you where he was traveling from and
5 where he was going to, at the time of his capture?

6 A [MR. [REDACTED]]: Yes. Mr. Hamdan stated he was traveling from
7 Boldak to Kandahar and he was--he made this trip to drop off his wife
8 and his friend, Abu Yassir.

9 Q [MR. MURPHY]: Did Mr. Hamdan indicate he was the owner of the
10 vehicle that he was driving at the time of his capture?

11 A [MR. [REDACTED]]: No. Mr. Hamdan stated the vehicle was owned
12 by Abu Yassir.

13 Q [MR. MURPHY]: On this trip before his capture, did he tell
14 you what he did first in Boldak before he drove toward Kandahar?

15 A [MR. [REDACTED]]: Yes. He said he dropped off his wife and his
16 friend, Abu Rahman.

17 Q [MR. MURPHY]: Where did he head next?

18 A [MR. [REDACTED]]: After he left Boldak, he was headed to
19 Kandahar.

20 Q [MR. MURPHY]: Were there other vehicles traveling with the
21 accused on his drive to Kandahar?

22 A [MR. [REDACTED]]: Yes.

23

1 Q [MR. MURPHY]: How many?

2 A [MR. [REDACTED]]: Three total.

3 Q [MR. MURPHY]: In which order--and this is something he told
4 you; right?

5 A [MR. [REDACTED]]: Yes.

6 Q [MR. MURPHY]: In which order of these three vehicles was
7 Mr. Hamdan's vehicle at the time of his capture?

8 A [MR. [REDACTED]]: Mr. Hamdan stated that he was the number two
9 vehicle in that three-car caravan.

10 Q [MR. MURPHY]: Were all three vehicles, as Hamdan described,
11 stopped--stopped?

12 A [MR. [REDACTED]]: Yes.

13 Q [MR. MURPHY]: Who stopped them?

14 A [MR. [REDACTED]]: Mr. Hamdan stated that an Afghan who was
15 apparently loyal to the former President of Afghanistan stopped the
16 caravan.

17 Q [MR. MURPHY]: Did he report to you what happened to the
18 occupants of the first vehicle?

19 A [MR. [REDACTED]]: Mr. Hamdan stated that the person in the first
20 vehicle exited--exited his vehicle, got into an altercation with that
21 person who stopped their caravan, in turn was shot and killed. And
22 then at that point Mr. Hamdan ducked down and took cover in his own
23 vehicle.

1 Q [MR. MURPHY]: At the point that Hamdan was captured, did he
2 tell you something significant--let me rephrase that.

3 At the point that Hamdan was captured, did he tell you
4 about something significant in the car Hamdan was driving?

5 A [MR. [REDACTED]]: Yes. Mr. Hamdan stated that he had a weapon
6 in the car at the time that he was stopped.

7 Q [MR. MURPHY]: Did he describe the weapon to you?

8 A [MR. [REDACTED]]: No, he did not.

9 Q [MR. MURPHY]: Did he say who owned the weapon?

10 A [MR. [REDACTED]]: He said the weapon belonged to Abu Rahman, the
11 individual he dropped off in Boldak.

12 Q [MR. MURPHY]: At any time during your interview with
13 Mr. Hamdan did he retract any of his admissions or claims to you?

14 A [MR. [REDACTED]]: No.

15 Q [MR. MURPHY]: Did he say he was not transporting a weapon?

16 A [MR. [REDACTED]]: I'm sorry?

17 Q [MR. MURPHY]: Did he ever say he was not transporting a
18 weapon?

19 A [MR. [REDACTED]]: No.

20 Q [MR. MURPHY]: But he didn't describe the weapon for you?

21 A [MR. [REDACTED]]: No. That was, again, you know, I had hoped to
22 interview Mr. Hamdan several times and didn't have a chance to go
23 back and interview Mr. Hamdan once and say he didn't--he wished no

1 longer to speak with me.

2 Q [MR. MURPHY]: Let's talk about your third interview. Did you
3 interview the accused in a third session on or about August 26, 2002?

4 A [MR. [REDACTED]]: Yes.

5 Q [MR. MURPHY]: Was this interview different in tone from the
6 two prior interviews?

7 A [MR. [REDACTED]]: Yeah. Yes, it was. Mr. Hamdan just was not
8 willing to talk with us at the time. He was calm but, again, he was
9 unwilling to talk to us and stated that everything is in his file and
10 he was willing to remain in prison for the rest of his--rest of his
11 life. At that point, we left. We terminated the interview.

12 Q [MR. MURPHY]: What did you--what did you do in light of his
13 stated position?

14 A [MR. [REDACTED]]: We--we did nothing. We--well, we stopped and
15 left the interview room and went about our day.

16 Q [MR. MURPHY]: Did you try and force him into continuing the
17 interview?

18 A [MR. [REDACTED]]: No.

19 Q [MR. MURPHY]: Did you accept his decision to end it?

20 A [MR. [REDACTED]]: Yes.

21 Q [MR. MURPHY]: All right. Did you show him a series of
22 photographs?

23 A [MR. [REDACTED]]: Yes, I did.

1 CTC [MR. MURPHY]: Your Honor, this brings us to the classified
2 portion, and I believe our screen is still off. These have
3 previously been seen by the defense, and they have a hard copy now.
4 I would offer to admit them as the next exhibits in order?

5 MJ [CAPT ALLRED]: What exactly are these documents?

6 CTC [MR. MURPHY]: These are photographs.

7 MJ [CAPT ALLRED]: Oh, okay.

8 CTC [MR. MURPHY]: They have been seen before by the Court.

9 MJ [CAPT ALLRED]: Show them to the witness and----

10 CTC [MR. MURPHY]: Correct. I don't----

11 MJ [CAPT ALLRED]: ----have him describe them.

12 CTC [MR. MURPHY]: I believe there may not be an objection. I
13 would offer them at this time. I believe our next exhibit number is
14 110.

15 CDC [MR. MCMILLAN]: Your Honor.

16 MJ [CAPT ALLRED]: Just a moment.

17 CDC [MR. MCMILLAN]: The defense has elected to hear some
18 foundation.

19 MJ [CAPT ALLRED]: Certainly. And----

20 CTC [MR. MURPHY]: And I'd be happy to lay a foundation for the
21 exhibits.

22 MJ [CAPT ALLRED]: Okay.

1 CTC [MR. MURPHY]: I'd be happy to lay a foundation. Your
2 Honor, do you want to preview these first yourself? They consist of
3 nine photographs. Otherwise, I'll show them to the--directly to the
4 accused.

5 MJ [CAPT ALLRED]: Okay. Will these be classified?

6 **[Note from defense table was handed to the military judge.]**

7 MJ [CAPT ALLRED]: Do you want me to read this note now?

8 CDC [MR. SCHNEIDER]: If you would, please.

9 MJ [CAPT ALLRED]: Okay. All right. Yeah, why don't we take a
10 break at the end of the direct examination, give--apparently,
11 Mr. Hamdan needs to take a walk or----

12 CTC [MR. MURPHY]: I--this is the last section of my
13 examination, Your Honor. I'm happy to lay the foundation. They are
14 classified. I would ask that they be shown only at this point to the
15 witness and the Military Judge. And if you could go through all
16 nine----

17 MJ [CAPT ALLRED]: ----let's make sure the monitors are turned
18 off at the counsels' tables.

19 DC [LCDR MIZER]: Yes.

20 MJ [CAPT ALLRED]: And this one is unplugged. Okay, I think,
21 we're ready to go.

22 CTC [MR. MURPHY]: If you could show all nine to the----

1 MJ [CAPT ALLRED]: I've seen these before. I showed them to the
2 witness. Take a look at all nine.

3 CTC [MR. MURPHY]: These will start with 110.

4 Q [MR. MURPHY]: Please tell me when you've seen all of them.

5 A [MR. [REDACTED]]: **[Examining the photographs.]** I've seen--yup.

6 Q [MR. MURPHY]: Do you recognize those?

7 A [MR. [REDACTED]]: Yes, I do.

8 Q [MR. MURPHY]: Have you seen those before?

9 A [MR. [REDACTED]]: Yes, I have.

10 Q [MR. MURPHY]: And when did you see them before?

11 A [MR. [REDACTED]]: Well, most recently last week in some motion
12 hearings, and then previously when I interviewed Mr. Hamdan.

13 Q [MR. MURPHY]: All right. And do you recognize those as the
14 same photo set that you presented to Mr. Hamdan?

15 A [MR. [REDACTED]]: Yes.

16 Q [MR. MURPHY]: Was he able to recognize those photos?

17 A [MR. [REDACTED]]: Certain photos, yes.

18 Q [MR. MURPHY]: And there are others that he's told you
19 specifically he did not recognize----

20 A [MR. [REDACTED]]: Yes.

21 Q [MR. MURPHY]: ----is that right?

22 A [MR. [REDACTED]]: Yes.

1 Q [MR. MURPHY]: And did you record his statement as it regarded
2 each of those photographs?

3 A [MR. [REDACTED]]: Yes, I did.

4 Q [MR. MURPHY]: And are you able to provide that information to
5 us today?

6 A [MR. [REDACTED]]: Yes.

7 CTC [MR. MURPHY]: Your Honor, I would offer Exhibits 110
8 through 118 at this time.

9 CDC [MR. MCMILLAN]: No objection, Your Honor.

10 CTC [MR. MURPHY]: All right.

11 MJ [CAPT ALLRED]: Very well, without objection they may be
12 admitted.

13 CTC [MR. MURPHY]: Your Honor, I ask that these now be published
14 only to the members and not to other screens.

15 MJ [CAPT ALLRED]: Very well.

16 CTC [MR. MURPHY]: The defense has a hard copy of this material.

17 Q [MR. MURPHY]: Let's turn to the first picture, 110. Did you
18 show this to the accused?

19 A [MR. [REDACTED]]: Yes, I did.

20 Q [MR. MURPHY]: What, if anything, did he say about it?

21 A [MR. [REDACTED]]: Mr. Hamdan stated that this individual is
22 Yemeni national who is a bodyguard for UBL. He goes by the name of
23 Dawood, and he was last seen 10 days before Ramadan, 2001.

1 Q [MR. MURPHY]: I show you the next photograph, marked as 111.

2 A [MR. ██████]: Yes.

3 Q [MR. MURPHY]: Do you recognize that?

4 A [MR. ██████]: Yes, I do.

5 Q [MR. MURPHY]: What, if anything, did the accused say about
6 that photo?

7 A [MR. ██████]: Mr. Hamdan stated again this was a Yemeni
8 national who was a bodyguard for Usama Bin Laden and had a name Anas,
9 and was seen--was a bodyguard before 9/11.

10 Q [MR. MURPHY]: I show you 112.

11 A [MR. ██████]: Yes, I recognize this individual.

12 Q [MR. MURPHY]: What, if anything, did Mr. Hamdan say?

13 A [MR. ██████]: Again, Mr. Hamdan stated this was a Yemeni
14 national, with the name Anas. Mr. Hamdan provided us some additional
15 information that he was seen wearing Afghan-style clothing, his face
16 was covered, and he had an AK-47.

17 Q [MR. MURPHY]: Exhibit 113.

18 A [MR. ██████]: Mr. Hamdan stated he may have seen this
19 individual at a guest house in either Kandahar or Kabul.

20 Q [MR. MURPHY]: 114.

21 A [MR. ██████]: Again, Mr. Hamdan stated this was a Yemeni
22 national who was Usama Bin Laden's bodyguard and was a bodyguard
23 after 9/11.

1 Q [MR. MURPHY]: 115.

2 A [MR. ██████████]: Mr. Hamdan just stated his name as Ghanem.

3 Q [MR. MURPHY]: And nothing more?

4 A [MR. ██████████]: Nothing more.

5 Q [MR. MURPHY]: 116.

6 A [MR. ██████████]: Mr. Hamdan stated this was a Sudanese national
7 with a name Khobeib. He was a bodyguard for Usama Bin Laden before
8 9/11 and provided some additional detail that he would often cook for
9 the bodyguards.

10 Q [MR. MURPHY]: 117.

11 A [MR. ██████████]: Yeah, again, Mr. Hamdan stated that this was a
12 regular bodyguard for Usama Bin Laden, and he had seen this
13 individual wearing Afghan-style clothing with his face covered and in
14 possession of an AK-47. And I believe he said he saw this individual
15 in a UBL guest house.

16 Q [MR. MURPHY]: Did----

17 A [MR. ██████████]: He did say this was a regular bodyguard of
18 Usama Bin Laden.

19 Q [MR. MURPHY]: Finally, 118.

20 A [MR. ██████████]: Mr. Hamdan had no information on this
21 individual.

1 Q [MR. MURPHY]: All right. The--Agent [REDACTED], your interviews
2 with the accused were in a fairly unique setting of the Joint Task
3 Force Guantanamo Bay; is that correct?

4 A [MR. [REDACTED]]: Yes.

5 Q [MR. MURPHY]: And you understood that to have a preeminent
6 intelligence mission when you were interviewing the accused; is that
7 right?

8 A [MR. [REDACTED]]: Yes.

9 Q [MR. MURPHY]: And if you were to note facts surrounding
10 Mr. Hamdan, facts to include allegations of transporting SA 7
11 weapons, providing armed protective services, transportation, stealth
12 movements for Usama Bin Laden, and you encountered him in a place
13 that's not a unique intelligence environment, as a federal agent,
14 what would every instinct in your body tell you to do?

15 CDC [MR. MCMILLAN]: Objection, Your Honor. This calls for a
16 legal conclusion.

17 CTC [MR. MURPHY]: I'm asking him how he performed his duties,
18 Your Honor.

19 MJ [CAPT ALLRED]: I'll--I'll overrule if these are similar to
20 the questions that Mr. Schneider asked on his examination of the
21 witnesses.

22 CTC [MR. MURPHY]: Okay.

23

1 Q [MR. MURPHY]: What would you do?

2 A [MR. ██████████]: Knowing all the information now, I would take
3 him into custody. I would arrest Mr. Hamdan.

4 Q [MR. MURPHY]: Why would you do that?

5 A [MR. ██████████]: He has--he's a co-conspirator in the al Qaeda
6 network, so I would immediately take him into custody.

7 Q [MR. MURPHY]: Would you seek to have him charged with a
8 criminal offense?

9 A [MR. ██████████]: Absolutely.

10 Q [MR. MURPHY]: What criminal offense would come to your mind
11 as one you would be looking at?

12 A [MR. ██████████]: Well, I guess at a minimum, as I said, you
13 know, conspiracy, you know, to commit terrorism at a minimum.
14 There's a host of charges he could be charged with. I'm not an
15 expert on all the different charges, but working with an AUSA, I'm
16 sure Mr. Hamdan would be subject to several criminal charges.

17 Q [MR. MURPHY]: As an investigating agent, would you view this
18 as a serious case?

19 A [MR. ██████████]: Oh, absolutely.

20 Q [MR. MURPHY]: And would you view this as serious charges?

21 A [MR. ██████████]: Absolutely.

22 CTC [MR. MURPHY]: If I may have a moment, Your Honor.

23 Your Honor, I tender the witness.

1 MJ [CAPT ALLRED]: Very good. What would the defense like to do
2 at this point?

3 CDC [MR. SWIFT]: We need a recess.

4 CDC [MR. SCHNEIDER]: Mr. McMillan will do the cross. I would
5 suggest that a brief recess and then finish the cross and let the
6 witness be on his way at the end of the day.

7 MJ [CAPT ALLRED]: I think that's a good idea. We've worked a
8 little bit late the last couple of nights, and since we're ahead of
9 schedule, I think after this witness we might call it a day. But why
10 don't we recess for a few minutes and come back.

11 BAILIFF: All rise **[all persons did as directed and the members**
12 **exited courtroom]**.

13 MJ [CAPT ALLRED]: Court will be in recess.
14 **[The military commission recessed at 1617, 24 July 2008.]**

15 **[END OF PAGE]**